ARTICLE 2
FINANCIAL INSTITUTIONS

Section 1. Definitions.

Subdivision 1. Terms. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. Authorized user. "Authorized user" means any employee, contractor, agent, or other person who: (1) participates in a financial institution's business operations; and (2) is authorized to access and use any of the financial institution's information systems and data.

Subd. 3. Commissioner. "Commissioner" means the commissioner of commerce.

Subd. 4. Consumer. (a) "Consumer" means an individual who obtains or has obtained from a financial institution a financial product or service that is used primarily for personal, family, or household purposes, or is used by the individual's legal representative. Consumer includes but is not limited to an individual who:

(1) applies to a financial institution for credit for personal, family, or household purposes, regardless of whether the credit is extended;

(2) provides nonpublic personal information to a financial institution in order to obtain a determination whether the individual qualifies for a loan used primarily for personal, family, or household purposes, regardless of whether the loan is extended;

(3) provides nonpublic personal information to a financial institution in connection with obtaining or seeking to obtain financial, investment, or economic advisory services, regardless of whether the financial institution establishes a continuing advisory relationship with the individual; or

(4) has a loan for personal, family, or household purposes in which the financial institution has ownership or servicing rights, even if the financial institution or one or more other institutions that held ownership or servicing rights in conjunction with the financial institution hired an agent to collect on the loan.

(b) Consumer does not include an individual who:

(1) is a consumer of another financial institution that uses a different financial institution to act solely as an agent for, or provide processing or other services to, the consumer's financial institution;

(2) designates a financial institution solely for the purposes to act as a trustee for a trust;

(3) is the beneficiary of a trust for which the financial institution serves as trustee; or

(4) has a loan for personal, family, or household purposes in which the financial institution has ownership or servicing rights, even if the financial institution or one or more other institutions that held ownership or servicing rights in conjunction with the financial institution hired an agent to collect on the loan.

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Subd. 5. Continuing relationship. (a) "Continuing relationship" means a consumer:

(1) has a credit or investment account with a financial institution;

(2) obtains a loan from a financial institution;

(3) purchases an insurance product from a financial institution;

(4) holds an investment product through a financial institution, including but not limited to when the financial institution acts as a custodian for securities or for assets in an individual retirement arrangement;

(5) enters into an agreement or understanding with a financial institution whereby the financial institution undertakes to arrange or broker a home mortgage loan, or credit to purchase a vehicle, for the consumer;

(6) enters into a lease of personal property on a nonoperating basis with a financial institution;

(7) obtains financial, investment, or economic advisory services from a financial institution for a fee;

(8) becomes a financial institution's client to obtain tax preparation or credit counseling services from the financial institution;

(9) obtains career counseling while: (i) seeking employment with a financial institution or the finance, accounting, or audit department of any company; or (ii) employed by a financial institution or department of any company;

(10) is obligated on an account that a financial institution purchases from another financial institution, regardless of whether the account is in default when purchased, unless the financial institution does not locate the consumer or attempt to collect any amount from the consumer on the account;

(11) obtains real estate settlement services from a financial institution; or

(12) has a loan for which a financial institution owns the servicing rights.

(b) Continuing relationship does not include situations where:

(1) the consumer obtains a financial product or service from a financial institution only in isolated transactions, including but not limited to: (i) using a financial institution's automated teller machine to withdraw cash from an account at another financial institution;

(2) purchasing a money order from a financial institution; (iii) cashing a check with a financial institution; or (iv) making a wire transfer through a financial institution; (v) obtaining a financial, investment, or economic advisory service from a financial institution; or (vi) making a cash withdrawal from another financial institution by using an automated teller machine; or

(7) obtains financial, investment, or economic advisory services from a financial institution only in isolated transactions, including but not limited to: (i) using a financial institution's automated teller machine to withdraw cash from an account at another financial institution; (ii) purchasing a money order from a financial institution; or (iii) making a wire transfer through a financial institution; (iv) obtaining a financial, investment, or economic advisory service from a financial institution; or (v) making a cash withdrawal from another financial institution by using an automated teller machine; or

(8) becomes a financial institution's client to obtain tax preparation or credit counseling services from the financial institution only in isolated transactions, including but not limited to: (i) using a financial institution's automated teller machine to withdraw cash from an account at another financial institution; (ii) purchasing a money order from a financial institution; (iii) cashing a check with a financial institution; or (iv) making a wire transfer through a financial institution; (v) obtaining a financial, investment, or economic advisory service from a financial institution; or (vi) making a cash withdrawal from another financial institution by using an automated teller machine; or

(9) obtains career counseling while: (i) seeking employment with a financial institution or the finance, accounting, or audit department of any company; or (ii) employed by a financial institution or department of any company only in isolated transactions, including but not limited to: (i) using a financial institution's automated teller machine to withdraw cash from an account at another financial institution; (ii) purchasing a money order from a financial institution; or (iii) cashing a check with a financial institution; or (iv) making a wire transfer through a financial institution; (v) obtaining a financial, investment, or economic advisory service from a financial institution; or (vi) making a cash withdrawal from another financial institution by using an automated teller machine; or

(10) is obligated on an account that a financial institution purchases from another financial institution, regardless of whether the account is in default when purchased, unless the financial institution does not locate the consumer or attempt to collect any amount from the consumer on the account;
(2) a financial institution sells the consumer's loan and does not retain the rights to service the loan;
(3) a financial institution sells the consumer airline tickets, travel insurance, or traveler's checks in isolated transactions;
(4) the consumer obtains onetime personal or real property appraisal services from a financial institution; or
(5) the consumer purchases checks for a personal checking account from a financial institution.


Subd. 7. Customer information. "Customer information" means any record containing nonpublic personal information about a financial institution's customer, whether the record is in paper, electronic, or another form, that is handled or maintained by or on behalf of the financial institution or the financial institution's affiliates.

Subd. 8. Customer relationship. "Customer relationship" means a continuing relationship between a consumer and a financial institution under which the financial institution provides to the consumer one or more financial products or services that are used primarily for personal, family, or household purposes.

Subd. 9. Encryption. "Encryption" means the transformation of data into a format that results in a low probability of assigning meaning without the use of a protective process or key, consistent with current cryptographic standards and accompanied by appropriate safeguards for cryptographic key material.

Subd. 10. Federally insured depository financial institution. "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United States, when the bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company has federally insured deposits.

Subd. 11. Financial product or service. "Financial product or service" means any product or service that a financial holding company could offer by engaging in a financial activity under section 4(k) of the Bank Holding Company Act of 1956, United States Code, title 12, section 1843(k). Financial product or service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

Subd. 12. Financial institution. "Financial institution" means a consumer small loan lender under section 47.00, a person owning or maintaining electronic financial terminals under section 47.02, a trust company under chapter 47A, a bank, credit union, or savings institution under chapter 47A, a money transmitter under chapter 47B,
a sales finance company under chapter 53C, a regulated loan lender under chapter 56, a
residential mortgage originator or servicer under chapter 58, a student loan servicer under
chapter 58B, a credit service organization under section 332.54, a debt management service
provider or person providing debt management services under chapter 332A, or a debt
settlement service provider or person providing debt settlement services under chapter 332B.

Subd. 13. Information security program. "Information security program" means the
administrative, technical, or physical safeguards a financial institution uses to access, collect,
distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer
information.

information resources organized to collect, process, maintain, use, share, disseminate, or
dispose of electronic information, as well as any specialized system, including but not
limited to industrial process controls systems, telephone switching and private branch
exchange systems, and environmental controls systems, that contains customer information
or that is connected to a system that contains customer information.

Subd. 15. Multifactor authentication. "Multifactor authentication" means authentication
through verification of at least two of the following factors:

(1) knowledge factors, including but not limited to a password;
(2) possession factors, including but not limited to a token; or
(3) inherence factors, including but not limited to biometric characteristics.

Subd. 16. Nonpublic personal information. (a) "Nonpublic personal information"
means:

(1) personally identifiable financial information; or
(2) any list, description, or other grouping of consumers, including publicly available
information pertaining to the list, description, or other grouping of consumers, that is derived
using personally identifiable financial information that is not publicly available;
(b) Nonpublic personal information includes but is not limited to any list of individuals'
names and street addresses that is derived in whole or in part using personally identifiable
financial information that is not publicly available, including account numbers;
(c) Nonpublic personal information does not include:

(1) publicly available information, except as included on a list described in paragraph
(a), clause (2);
(2) any list, description, or other grouping of consumers, including publicly available
information pertaining to the list, description, or other grouping of consumers, that is derived
through verification of at least two of the following factors:

(1) knowledge factors, including but not limited to a password;
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means:

(1) personally identifiable financial information; or
(2) any list, description, or other grouping of consumers, including publicly available
information pertaining to the list, description, or other grouping of consumers, that is derived
using personally identifiable financial information that is not publicly available;
(b) Nonpublic personal information includes but is not limited to any list of individuals'
names and street addresses that is derived in whole or in part using personally identifiable
financial information that is not publicly available, including account numbers;
(c) Nonpublic personal information does not include:

(1) publicly available information, except as included on a list described in paragraph
(a), clause (2);
(2) any list, description, or other grouping of consumers, including publicly available
information pertaining to the list, description, or other grouping of consumers, that is derived
without using any personally identifiable financial information that is not publicly available;

or

(3) any list of individuals' names and addresses that contains only publicly available

information, is not derived in whole or in part using personally identifiable financial

information that is not publicly available, and is not disclosed in a manner that indicates

that any individual on the list is the financial institution's consumer;

Subd. 17. *Notification event.* "Notification event" means the acquisition of unencrypted

customer information without the authorization of the individual to which the information

pertains. Customer information is considered unencrypted for purposes of this subdivision

if the encryption key was accessed by an unauthorized person. Unauthorized acquisition is

presumed to include unauthorized access to unencrypted customer information unless the

financial institution has reliable evidence showing that there has not been, or could not

reasonably have been, unauthorized acquisition of customer information;

Subd. 18. *Penetration testing.* "Penetration testing" means a test methodology in which

assessors attempt to circumvent or defeat the security features of an information system by

attempting to penetrate databases or controls from outside or inside a financial institution's

information systems;

Subd. 19. *Personally identifiable financial information.* (a) "Personally identifiable

financial information" means any information:

(1) a consumer provides to a financial institution to obtain a financial product or service;

(2) about a consumer resulting from any transaction involving a financial product or

service between a financial institution and a consumer; or

(3) a financial institution otherwise obtains about a consumer in connection with providing

a financial product or service to the customer;

(b) Personally identifiable financial information includes:

(1) information a consumer provides to a financial institution on an application to obtain

a loan, credit card, or other financial product or service;

(2) account balance information, payment history, overdraft history, and credit or debit

card purchase information;

(3) the fact that an individual is or has been a financial institution's customer or has

obtained a financial product or service from the financial institution;

(4) any information about a financial institution's consumer, if the information is disclosed

in a manner that indicates that the individual is or has been the financial institution's

consumer;
any information that a consumer provides to a financial institution or that a financial institution or a financial institution's agent otherwise obtains in connection with collecting on or servicing a credit account.

any information a financial institution collects through an Internet information collecting device from a web server; and

(7) information from a consumer report.

(2) with respect to widely distributed media, information from a telephone book, a television or radio program, a newspaper, or a website that is available to the general public.

Subd. 20. Publicly available information. (a) "Publicly available information" means any information that a financial institution has a reasonable basis to believe is lawfully made available to the general public from:

(1) federal, state, or local government records;

(2) widely distributed media; or

(3) disclosures to the general public that are required under federal, state, or local law.

(b) Publicly available information includes but is not limited to:

(1) with respect to government records, information in government real estate records and security interest filings; and

(2) with respect to widely distributed media, information from a telephone book, a television or radio program, a newspaper, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, provided that access is available to the general public.

(c) For purposes of this subdivision, a financial institution has a reasonable basis to believe that information is lawfully made available to the general public if the financial institution has taken steps to determine: (1) that the information is of the type that is available to the general public; and (2) whether an individual can direct that the information not be made available to the general public and, if so, that the financial institution's consumer has not directed that the information not be made available to the general public. A financial institution has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the financial institution determines the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded. A financial institution has a reasonable basis to believe that an individual's

(1) a list of customer names and addresses for an entity that is not a financial institution; and

(2) any information that does not identify a consumer, including but not limited to aggregate information or blind data that does not contain personal identifiers, including account numbers, names, or addresses.

Subd. 20. Publicly available information. (a) "Publicly available information" means any information that a financial institution has a reasonable basis to believe is lawfully made available to the general public from:

(1) federal, state, or local government records;

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(3) disclosures to the general public that are required under federal, state, or local law.

(b) Publicly available information includes but is not limited to:

(1) with respect to government records, information in government real estate records and security interest filings; and

(2) with respect to widely distributed media, information from a telephone book, a television or radio program, a newspaper, or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, provided that access is available to the general public.

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Subd. 21. **Qualified individual.** "Qualified individual" means the individual designated by a financial institution to oversee, implement, and enforce the financial institution's information security program.

Subd. 22. **Security event.** "Security event" means an event resulting in unauthorized access to, or disruption or misuse of: (1) an information system or information stored on an information system; or (2) customer information held in physical form.

Subd. 23. **Service provider.** "Service provider" means any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through the service provider's provision of services directly to a financial institution that is subject to this chapter.

Sec. 2. [46A.02] **SAFEGUARDING CUSTOMER INFORMATION; STANDARDS.**

**Subdivision 1. Information security program.** (a) A financial institution must develop, implement, and maintain a comprehensive information security program. (b) The information security program must: (1) be written in one or more readily accessible parts; and (2) contain administrative, technical, and physical safeguards that are appropriate to the financial institution's size and complexity, the nature and scope of the financial institution's activities, and the sensitivity of any customer information at issue. (c) The information security program must include the elements set forth in section 46A.03 and must be reasonably designed to achieve the objectives of this chapter, as established under subdivision 2.

**Subd. 2. Objectives.** The objectives of this chapter are to: (1) ensure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of customer information; and (3) protect against unauthorized access to or use of customer information that might result in substantial harm or inconvenience to a customer.

Sec. 3. [46A.03] **ELEMENTS.**

**Subdivision 1. Generally.** In order to develop, implement, and maintain an information security program, a financial institution must comply with this section.

**Subd. 2. Qualified individual.** (a) A financial institution must designate a qualified individual responsible for overseeing, implementing, and enforcing the financial institution's information security program. **Subd. 21. Qualified individual.** "Qualified individual" means the individual designated by a financial institution to oversee, implement, and enforce the financial institution's information security program.

**Subd. 22. Security event.** "Security event" means an event resulting in unauthorized access to, or disruption or misuse of: (1) an information system or information stored on an information system; or (2) customer information held in physical form.

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Sec. 2. [46A.02] **SAFEGUARDING CUSTOMER INFORMATION; STANDARDS.**

**Subdivision 1. Information security program.** (a) A financial institution must develop, implement, and maintain a comprehensive information security program. (b) The information security program must: (1) be written in one or more readily accessible parts; and (2) contain administrative, technical, and physical safeguards that are appropriate to the financial institution's size and complexity, the nature and scope of the financial institution's activities, and the sensitivity of any customer information at issue. (c) The information security program must include the elements set forth in section 46A.03 and must be reasonably designed to achieve the objectives of this chapter, as established under subdivision 2.

**Subd. 2. Objectives.** The objectives of this chapter are to: (1) ensure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of customer information; and (3) protect against unauthorized access to or use of customer information that might result in substantial harm or inconvenience to a customer.

**Subdivision 1. Generally.** In order to develop, implement, and maintain an information security program, a financial institution must comply with this section.

**Subd. 2. Qualified individual.** (a) A financial institution must designate a qualified individual responsible for overseeing, implementing, and enforcing the financial institution's information security program. **Subd. 21. Qualified individual.** "Qualified individual" means the individual designated by a financial institution to oversee, implement, and enforce the financial institution's information security program.
Subd. 3. Security risk assessment. (a) A financial institution must base the financial institution's information security program on a risk assessment that:

(1) identifies reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that might result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of customer information; and

(2) assesses the sufficiency of any safeguards in place to control the risks identified under clause (1).

(b) The risk assessment must be made in writing and must include:

(1) criteria to evaluate and categorize identified security risks or threats the financial institution faces; and

(2) criteria to assess the confidentiality, integrity, and availability of the financial institution's information systems and customer information, including the adequacy of existing controls in the context of the identified risks or threats the financial institution faces; and

(3) requirements describing how:

(i) identified risks are mitigated or accepted based on the risk assessment; and

(ii) the information security program addresses the risks.

(c) A financial institution must periodically perform additional risk assessments that:

(1) reexamine the reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that might result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of customer information; and

(2) if a financial institution designates an individual employed by an affiliate or service provider as the financial institution's qualified individual, the financial institution must:

(1) retain responsibility for complying with this chapter;

(2) designate a senior member of the financial institution's personnel to be responsible for directing and overseeing the qualified individual's activities; and

(3) require the service provider or affiliate to maintain an information security program that protects the financial institution in a manner that complies with the requirements of this chapter.

(1) reexamine the reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that might result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of customer information; and

(2) criteria to assess the confidentiality, integrity, and availability of the financial institution's information systems and customer information, including the adequacy of existing controls in the context of the identified risks or threats the financial institution faces; and

(3) requirements describing how:

(i) identified risks are mitigated or accepted based on the risk assessment; and

(ii) the information security program addresses the risks.

(c) A financial institution must periodically perform additional risk assessments that:

(1) reexamine the reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that might result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of customer information; and
(2) reassess the sufficiency of any safeguards in place to control the risks identified under clause (1).

Subd. 4. Risk control. A financial institution must design and implement safeguards to control the risks the financial institution identifies through the risk assessment under subdivision 3, including by:

(1) implementing and periodically reviewing access controls, including technical and, as appropriate, physical controls to:

(i) authenticate and permit access only to authorized users to protect against the unauthorized acquisition of customer information; and

(ii) limit an authorized user’s access to only customer information that the authorized user needs to perform the authorized user’s duties and functions or, in the case of a customer, to limit access to the customer’s own information;

(2) identifying and managing the data, personnel, devices, systems, and facilities that enable the financial institution to achieve business purposes in accordance with the business purpose’s relative importance to business objectives and the financial institution’s risk strategy;

(3) protecting by encryption all customer information held or transmitted by the financial institution both in transit over external networks and at rest. To the extent a financial institution determines that encryption of customer information either in transit over external networks or at rest is infeasible, the financial institution may secure the customer information using effective alternative compensating controls that have been reviewed and approved by the financial institution’s qualified individual;

(4) adopting: (i) secure development practices for in-house developed applications utilized by the financial institution to transmit, access, or store customer information; and (ii) procedures to evaluate, assess, or test the security of externally developed applications the financial institution uses to transmit, access, or store customer information;

(5) implementing multifactor authentication for any individual that accesses any information system, unless the financial institution’s qualified individual has approved in writing the use of a reasonably equivalent or more secure access control;

(6) developing, implementing, and maintaining procedures to securely dispose of customer information in any format no later than two years after the last date the information is used in connection with providing a product or service to the customer which relates, unless: (i) the information is necessary for business operations or for other legitimate business purposes; (ii) is otherwise required to be retained by law or regulation; or (iii) if targeted disposal of the information is not reasonably feasible due to the manner in which the information is maintained;
periodically reviewing the financial institution's data retention policy to minimize the unnecessary retention of data; and

(9) implementing policies, procedures, and controls designed to: (i) monitor and log the activity of authorized users; and (ii) detect unauthorized access to, use of, or tampering with customer information by authorized users;

Subd. 5. Testing and monitoring. (a) A financial institution must regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures, including the controls, systems, and procedures that detect actual and attempted attacks on, or intrusions into, information systems, or periodic penetration testing and vulnerability assessments. Absent effective continuous monitoring or other systems to detect on an ongoing basis any changes in information systems that may create vulnerabilities, a financial institution must conduct:

(1) annual penetration testing of the financial institution's information systems, based on relevant identified risks in accordance with the risk assessment; and

(2) vulnerability assessments, including systemic scans or information systems reviews that are reasonably designed to identify publicly known security vulnerabilities in the financial institution's information systems based on the risk assessment, at least every six months, whenever a material change to the financial institution's operations or business arrangements occurs, and whenever the financial institution knows or has reason to know circumstances exist that may have a material impact on the financial institution's information security program.

Subd. 6. Internal policies and procedures. A financial institution must implement policies and procedures to ensure that the financial institution's personnel are able to enact the financial institution's information security program by:

(1) providing the financial institution's personnel with security awareness training that is updated as necessary to reflect risks identified by the risk assessment;

(2) utilizing qualified information security personnel employed by the financial institution, an affiliate, or a service provider sufficient to manage the financial institution's information security risks and to perform or oversee the information security program;

(3) providing information security personnel with security updates and training sufficient to address relevant security risks; and

(4) verifying that key information security personnel take steps to maintain current knowledge of changing information security threats and countermeasures.
Subd. 7. Provider oversight. A financial institution must oversee service providers by:

1. taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue;
2. requiring by contract the financial institution's service providers to implement and maintain appropriate safeguards; and
3. periodically assessing the financial institution's service providers based on the risk the service providers present and the continued adequacy of the service providers' safeguards.

Subd. 8. Information security program; evaluation; adjustment. A financial institution must evaluate and adjust the financial institution's information security program to reflect:

1. the results of the testing and monitoring required under subdivision 5; (2) any material changes to the financial institution's operations or business arrangements; (3) the results of risk assessments performed under subdivision 3, paragraph (c); or (4) any other circumstances that the financial institution knows or has reason to know may have a material impact on the financial institution's information security program.

Subd. 9. Incident response plan. A financial institution must establish a written incident response plan designed to promptly respond to and recover from any security event materially affecting the confidentiality, integrity, or availability of customer information the financial institution controls. An incident response plan must address:

1. the goals of the incident response plan;
2. the internal processes to respond to a security event;
3. clear roles, responsibilities, and levels of decision making authority;
4. external and internal communications and information sharing;
5. requirements to remediate any identified weaknesses in information systems and associated controls;
6. documentation and reporting regarding security events and related incident response activities; and
7. evaluation and revision of the incident response plan as necessary after a security event.

Subd. 10. Annual report. (a) A financial institution must require the financial institution's qualified individual to report at least annually in writing to the financial institution's board of directors or equivalent governing body if a board of directors or equivalent governing body does not exist, the report under this subdivision must be timely presented to a senior officer responsible for the financial institution's information security program.

(b) The report made under this subdivision must include the following information:
the overall status of the financial institution's information security program, including compliance with this chapter and associated administrative rules; and

(2) material matters related to the financial institution's information security program, including but not limited to addressing issues pertaining to: (i) the risk assessment; (ii) risk management and control decisions; (iii) service provider arrangements; (iv) testing results; (v) security events or violations and management's responses to the security event or violation; and (vi) recommendations for changes in the information security program.

Subd. 11. Business continuity; disaster recovery. A financial institution must establish a written plan addressing business continuity and disaster recovery.

Sec. 4. [46A.04] EXCEPTIONS AND EXEMPTIONS.

(a) The requirements under section 46A.03, subdivisions 3; 5, paragraph (a); 9; and 10, do not apply to financial institutions that maintain customer information concerning fewer than 5,000 consumers.

(b) This chapter does not apply to credit unions or federally insured depository institutions.

Sec. 5. [46A.05] ALTERATION OF FEDERAL REGULATION.

(a) If an amendment to Code of Federal Regulations, title 16, part 314, results in a complete lack of federal regulations in the area, the version of the state requirements in effect at the time of the amendment remain in effect for two years from the date the amendment becomes effective.

(b) During the time period under paragraph (a), the department must adopt replacement administrative rules as necessary and appropriate.

Sec. 6. [46A.06] NOTIFICATION EVENT.

Subdivision 1. Notification requirement. (a) Upon discovering a notification event as described in subdivision 2, if the notification event involves the information of at least 500 consumers, a financial institution must notify the commissioner without undue delay, but no later than 45 days after the date the event is discovered. The notice must be made (1) in a format specified by the commissioner, and (2) electronically on a form located on the department's website.

(b) The notice must include:

(1) the name and contact information of the reporting financial institution;

(2) a description of the types of information involved in the notification event;

(3) if possible to determine, the date or date range of the notification event;

(4) the number of consumers affected or potentially affected by the notification event;

(5) the overall status of the financial institution's information security program, including compliance with this chapter and associated administrative rules; and

(2) material matters related to the financial institution's information security program, including but not limited to addressing issues pertaining to: (i) the risk assessment; (ii) risk management and control decisions; (iii) service provider arrangements; (iv) testing results; (v) security events or violations and management's responses to the security event or violation; and (vi) recommendations for changes in the information security program.

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(2) a description of the types of information involved in the notification event;

(3) if possible to determine, the date or date range of the notification event;

(4) the number of consumers affected or potentially affected by the notification event;
(5) a general description of the notification event; and

(6) a statement (i) disclosing whether a law enforcement official has provided the financial institution with a written determination indicating that providing notice to the public regarding the breach would impede a criminal investigation or cause damage to national security, and (ii) if a written determination described under item (i) was provided to the financial institution, providing contact information that enables the commissioner to contact the law enforcement official. A law enforcement official may request an initial delay of up to 45 days following the date that notice was provided to the commissioner. The delay may be extended for an additional period of up to 60 days if the law enforcement official seeks an extension in writing. An additional delay may be permitted only if the commissioner determines that public disclosure of a security event continues to impede a criminal investigation or cause damage to national security.

Subd. 2. Notification event treated as discovered. A notification event must be treated as discovered on the first day when the event is known to a financial institution. A financial institution is deemed to have knowledge of a notification event if the event is known to any person, other than the person committing the breach, who is the financial institution's employee, officer, or other agent.

Sec. 7. [46A.07] COMMISSIONER'S POWERS.

(a) The commissioner has the power to examine and investigate the affairs of any covered financial institution to determine whether the financial institution has been or is engaged in any conduct that violates this chapter. This power is in addition to the powers granted to the commissioner under section 46.01.

(b) If the commissioner has reason to believe that a financial institution has been or is engaged in conduct in Minnesota that violates this chapter, the commissioner may take action necessary or appropriate to enforce this chapter.

Sec. 8. [46A.08] CONFIDENTIALITY.

Subdivision 1. Financial institution information. (a) Any documents, materials, or other information in the control or possession of the department that are furnished by a licensee or a licensee's employee or agent acting on behalf of a financial institution pursuant to section 46A.06 or that are obtained by the commissioner in an investigation or examination pursuant to section 46A.07; (1) are classified as confidential, protected nonpublic, or both; (2) are not subject to subpoena; and (3) are not subject to discovery or admissible in evidence in any private civil action.

(b) Notwithstanding paragraph (a), clauses (1) to (3), the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

Subd. 2. Certain testimony prohibited. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is deemed to have knowledge of a notification event if the event is known to any person, other than the person committing the breach, who is the financial institution's employee, officer, or other agent.
commissioner is permitted or required to testify in a private civil action concerning
confidential documents, materials, or information subject to subdivision 1.

Subd. 3. Information sharing. In order to assist in the performance of the commissioner's duties under sections 46A.01 to 46A.08, the commissioner may:

(1) share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision 1, with other state, federal, and international regulatory agencies, with the Conference of State Bank Supervisors, the Conference of State Bank Supervisors' affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information;

(2) receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the Conference of State Bank Supervisors, the Conference of State Bank Supervisors' affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and must maintain as confidential or privileged any document, material, or information received with notice or the understanding that the document, material, or information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information;

(3) share documents, materials, or other information subject to subdivision 1 with a third-party consultant or vendor, provided the consultant agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and

(4) enter into agreements governing the sharing and use of information that are consistent with this subdivision.

Subd. 4. No waiver of privilege or confidentiality; information retention. (a) The disclosure of documents, materials, or information to the commissioner under this section or as a result of sharing as authorized in subdivision 3 does not result in a waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information:

(b) A document, material, or information disclosed to the commissioner under this section about a cybersecurity event must be retained and preserved by the financial institution for five years:

Subd. 5. Certain actions public. Nothing in sections 46A.01 to 46A.08 prohibits the commissioner from releasing final, adjudicated actions that are open to public inspection pursuant to chapter 13 to a database or other clearinghouse service maintained by the Conference of State Bank Supervisors, the Conference of State Bank Supervisors' affiliates, or the Conference of State Bank Supervisors' subsidiaries.

Subd. 6. Classification, protection, and use of information by others. Documents, materials, or other information in the possession or control of the Conference of State Bank...
Supervisors or a third-party consultant pursuant to sections 46A.01 to 46A.08: (1) are itemization furnished the borrower. A lender shall not collect from a borrower the additional charges and fees necessary for or related to the transfer of real or personal property securing a conventional loan or real property, whether or not retained by the mortgagee or lender:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than $300,000. A commitment for a contract for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than $300,000. A commitment for a contract
for deed shall include an executed purchase agreement or earnest money contract wherein
the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a loan or advance
of credit made by a credit union or made pursuant to section 334.011, to a noncorporate
borrower in an original principal amount of less than $100,000, secured by a security
interest on a share or shares of stock or a membership certificate or certificates
issued to a stockholder or member by a cooperative apartment corporation, which may be
accompanied by an assignment by way of security of the borrower's interest in the proprietary
lease or occupancy agreement in property issued by the cooperative apartment corporation
and which is not insured or guaranteed by the secretary of housing and urban development,
the administrator of veterans affairs, or by the administrator of the Farmers Home Administration.

(5) "Cooperative apartment loan" means a loan or advance of credit, other than a loan
or advance of credit made by a credit union or made pursuant to section 334.011, to a
noncorporate borrower in an original principal amount of less than $100,000, secured by a
security interest on a share or shares of stock or a membership certificate or certificates
issued to a stockholder or member by a cooperative apartment corporation, which may be
accompanied by an assignment by way of security of the borrower's interest in the proprietary
lease or occupancy agreement in property issued by the cooperative apartment corporation
and which is not insured or guaranteed by the secretary of housing and urban development,
the administrator of veterans affairs, or by the administrator of the Farmers Home Administration.

(6) "Forward commitment fee" means a fee or other consideration paid to a lender for
the purpose of securing a binding forward commitment by or through the lender to make
conventional loans to two or more credit worthy purchasers, including future purchasers,
of residential units, or a fee or other consideration paid to a lender for the purpose of securing
a binding forward commitment by or through the lender to make conventional loans to two
or more credit worthy purchasers, including future purchasers, of units to be created out of
existing structures pursuant to chapter 515B, or a fee or other consideration paid to a lender
for the purpose of securing a binding forward commitment by or through the lender to make
cooperative apartment loans to two or more credit worthy purchasers, including future
purchasers, of a share or shares of stock or a membership certificate or certificates in a
cooperative apartment corporation; provided, that the forward commitment rate of interest
does not exceed the maximum lawful rate of interest effective as of the date the forward
commitment is issued by the lender.
"Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the commitment, the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

"Lender" means any person making a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

"Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan. The finance charge, with respect to wraparound mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate balances of the prior note or notes which have been made a part of the wraparound mortgage note.

"Loan yield" means the annual rate of return obtained by a borrower over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage of the total amount of funds advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

"Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

"Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage of the total amount of funds advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.
Section 47.54, subdivision 2, is amended to read: (a) If no objection is received by the commissioner within 15 days after the publication of the notice, the commissioner shall issue a notice approving the application without a hearing if it is found

that the establishment of the proposed detached facility will improve the quality or increase the availability of banking services in the community to be served, and it is found that the application does not have an undue adverse effect upon the solvency of existing financial institutions in the community to be served.

(2) The commissioner shall not issue a notice approving the application unless it is found that the establishment of the proposed detached facility will not have undue adverse effect upon the solvency of existing financial institutions in the community to be served.

(3) Any proceedings for judicial review of an adverse decision made under this subdivision without a contested case hearing shall be conducted pursuant to the provisions of the Administrative Procedure Act relating to judicial review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in such proceedings shall be as provided therein. Nothing herein shall be construed as requiring the commissioner to conduct a contested case hearing if no written objection is timely received by the commissioner from a bank within three miles of the proposed location of the detached facility.
Sec. 11. Minnesota Statutes 2022, section 47.54, subdivision 6, is amended to read:

Subd. 6. Expiration and extension of credit approval. If a facility is not activated within 18 months from the date of the credit approval is granted under subdivision 2, the approval shall automatically expire. Upon a request made by the applicant pursuant to before the automatic expiration date of the credit approval expires, the commissioner may grant reasonable extensions of time to the applicant to activate the facility as the commissioner deems necessary. The extensions of time shall not exceed a total of an additional 12 months. If the commissioner’s credit approval is the subject of an appeal in accordance with chapter 14, the time period referred to in this section for activation of to activate the facility and any extensions begins when all appeals or rights of appeal from the commissioner’s credit approval have concluded or expired.
Minnesota. Consumer loans made in Minnesota are subject to the rates established in this section and as otherwise provided by the laws of Minnesota.

e) A consumer loan is deemed to be made in Minnesota and is subject to this section and other applicable laws of Minnesota if the borrower is a Minnesota resident and the borrower completes the transaction, either personally or electronically, while physically located in Minnesota.

EFFECTIVE DATE. This section is effective August 1, 2024, and applies to loans executed on or after that date.

Sec. 13. Minnesota Statutes 2022, section 47.59, subdivision 3, is amended to read:

Subd. 3. Finance charge for loans. (a) With respect to a loan, including a loan pursuant to open-end credit but excluding open-end credit pursuant to a credit card, a financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount not to exceed the greater of:

1. an annual percentage rate not exceeding 21.75 percent; or
2. the total of:
   i. 33 percent per year on that part of the unpaid balance of the principal amount not exceeding $1,350; and
   ii. 19 percent per year on that part of the unpaid balance of the principal amount exceeding $1,350.

With respect to open-end credit pursuant to a credit card, the financial institution may contract for and receive a finance charge on the unpaid balance of the principal amount at an annual percentage rate not exceeding 18 percent per year or, if the financial institution is an out-of-state bank, as defined in section 48.92, or out-of-state credit union, as defined in section 52.001, the rate allowed by the financial institution's home state, if that rate exceeds 18 percent per year.

(b) On a loan where the finance charge is calculated according to the method provided for in paragraph (a), clause (2), the finance charge must be contracted for and earned as provided in that provision or at the single annual percentage rate computed to the nearest one-tenth of one percent that would earn the same total finance charge at maturity of the contract as would be earned by the application of the graduated rates provided in paragraph (a), clause (2), when the debt is paid according to the agreed terms and the calculations are made according to the actuarial method.

c) With respect to a loan, the finance charge must be considered not to exceed the maximum annual percentage rate permitted under this section if the finance charge contracted for and received does not exceed the equivalent of the maximum annual percentage rate calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the definition of finance charge provided in this section.
(d) This subdivision does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount, discount points, precomputed charges, single annual percentage rate, variable rate, interest in advance, compounding, average daily balance method, or otherwise; if the annual percentage rate does not exceed that permitted by this section. Discount points permitted by this paragraph and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

(e) With respect to a loan secured by real estate, if a finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent that the annual percentage rate yield on the loan would exceed the maximum rate permitted under paragraph (a), taking into account the prepayment. The refund need not be made if it would be less than $9.00.

(f) With respect to all other loans, if the finance charge is calculated or collected in advance, or included in the principal amount of the loan, and the borrower prepays the loan in full, the financial institution shall credit the borrower with a refund of the charge to the extent the annual percentage rate yield on the loan would exceed the annual percentage rate on the loan as originally determined under paragraph (a) and taking into account the prepayment. The refund need not be made if it would be less than $9.00.

(g) For the purpose of calculating the refund under this subdivision, the financial institution may assume that the contract was paid before the date of prepayment according to the schedule of payments under the loan and that all payments were paid on their due dates.

(h) For loans repayable in substantially equal successive monthly installments, the financial institution may calculate the refund under paragraph (f) as the portion of the finance charge allocable on an actuarial basis to all wholly unexpired payment periods following the date of prepayment, based on the annual percentage rate on the loan as originally determined under paragraph (a), and for the purpose of calculating the refund may assume that all payments are made on the due date.

(i) The dollar amounts in this subdivision, subdivision 6, paragraph (a), clause (4), and the dollar amount of original principal amount of closed-end credit in subdivision 6, paragraph (d), shall change periodically, as provided in this section, according to and to the extent of changes in the implicit price deflator for the gross domestic product, 2005 = 100, compiled by the United States Department of Commerce, and hereafter referred to as the index. The index for December 2011 is the reference base index for adjustments of dollar amounts.

(j) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for December of the preceding year and the reference base index is ten percent or more; but
(1) the portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in Laws 1995, chapter 202, on May 24, 1995; and
(2) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier application of this section.

(k) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the Department of Commerce. If the index is superseded, the index referred to in this section is the one represented by the Department of Commerce as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(l) The commissioner shall:
(1) announce and publish on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by paragraph (j);
(2) announce and publish promptly after the changes occur, changes in the index required by paragraph (k) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index; and
(3) promptly notify the revisor of statutes in writing of the changes announced and published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish the changes in the next edition of Minnesota Statutes.

(m) A person does not violate this chapter with respect to a transaction otherwise complying with this chapter if that person relies on dollar amounts either determined according to paragraph (j), clause (2), or appearing in the last publication of the commissioner announcing the then current dollar amounts.

The adjustments provided in this section shall not be affected unless explicitly provided otherwise by law.

EFFECTIVE DATE: This section is effective August 1, 2024, and applies to loans executed on or after that date.

Sec. 12. Minnesota Statutes 2022, section 48.24, subdivision 2, is amended to read:

Subd. 2. Loan liabilities. Loans not exceeding 25 percent of such capital and surplus made upon first mortgage security on improved real estate in any state in which the bank or a branch established under section 49.411, detached facility of the bank is located, or in any state adjoining a state in which the bank or a branch established under section 49.411, detached facility of the bank is located, shall not constitute a liability of the maker of the
notes secured by such mortgages within the meaning of the foregoing provision limiting
liability, but shall be an actual liability of the maker. These mortgage loans shall be limited
to, and in no case exceed, 50 percent of the cash value of the security covered by the
mortgage, except mortgage loans guaranteed as provided by the Servicemen's Readjustment
Act of 1944, as now or hereafter amended, or for which there is a commitment to so guarantee
or for which a conditional guarantee has been issued, which loans shall in no case exceed
60 percent of the cash value of the security covered by such mortgage. For the purposes of
this subdivision, real estate is improved when substantial and permanent development or
construction has contributed substantially to its value, and agricultural land is improved
when farm crops are regularly raised on such land without further substantial improvements.

Sec. 13. Minnesota Statutes 2023 Supplement, section 53B.28, subdivision 18, is amended
to read:

Subd. 18. Money transmission. (a) "Money transmission" means:

(1) selling or issuing payment instruments to a person located in this state;
(2) selling or issuing stored value to a person located in this state; or
(3) receiving money for transmission from a person located in this state.

(b) Money includes payroll processing services. Money transmission does not include
the provision solely of online or telecommunications services or network access.

to read:

Subd. 25. Payroll processing services. "Payroll processing services" means receiving
money for transmission pursuant to a contract with a person to deliver, delivering wages or
salaries, making payment of payroll taxes to state and federal agencies, making payments
relating to employee benefit plans, or making distributions of other authorized
deductions from wages or salaries, or transmitting money on behalf of an employer in
connection with transactions related to employees. The term payroll processing services
does not include an employer performing payroll processing services on the
employer's own behalf or on behalf of the employer's affiliate, or a professional
employment organization subject to regulation under other applicable state law.

Sec. 15. Minnesota Statutes 2023 Supplement, section 53B.29, is amended to read:

53B.29 EXEMPTIONS.

This chapter does not apply to:

(1) an operator of a payment system, to the extent the operator of a payment system
provides processing, clearing, or settlement services between or among persons exempted
by this section or licensees in connection with wire transfers, credit card transactions, debit

notes secured by such mortgages within the meaning of the foregoing provision limiting
liability, but shall be an actual liability of the maker. These mortgage loans shall be limited
to, and in no case exceed, 50 percent of the cash value of the security covered by the
mortgage, except mortgage loans guaranteed as provided by the Servicemen's Readjustment
Act of 1944, as now or hereafter amended, or for which there is a commitment to so guarantee
or for which a conditional guarantee has been issued, which loans shall in no case exceed
60 percent of the cash value of the security covered by such mortgage. For the purposes of
this subdivision, real estate is improved when substantial and permanent development or
construction has contributed substantially to its value, and agricultural land is improved
when farm crops are regularly raised on such land without further substantial improvements.

Sec. 1. Minnesota Statutes 2023 Supplement, section 53B.28, subdivision 18, is amended
to read:

Subd. 18. Money transmission. (a) "Money transmission" means:

(1) selling or issuing payment instruments to a person located in this state;
(2) selling or issuing stored value to a person located in this state; or
(3) receiving money for transmission from a person located in this state.

(b) Money includes payroll processing services. Money does not include the provision
solely of online or telecommunications services or network access.

Sec. 2. Minnesota Statutes 2023 Supplement, section 53B.28, subdivision 25, is amended
to read:

Subd. 25. Payroll processing services. "Payroll processing services" means receiving
money for transmission pursuant to a contract with a person to deliver, delivering wages or
salaries, making payment of payroll taxes to state and federal agencies, making payments
relating to employee benefit plans, or making distributions of other authorized
deductions from wages or salaries, or transmitting other funds on behalf of an employer in
connection with transactions related to employees. The term payroll processing services
does not include an employer performing payroll processing services on the
employer's own behalf or on behalf of the employer's affiliate, or a professional
employment organization subject to regulation under other applicable state law.

Sec. 3. Minnesota Statutes 2023 Supplement, section 53B.29, is amended to read:

53B.29 EXEMPTIONS.

This chapter does not apply to:

(1) an operator of a payment system, to the extent the operator of a payment system
provides processing, clearing, or settlement services between or among persons exempted
by this section or licensees in connection with wire transfers, credit card transactions, debit
card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers;

(2) a person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(i) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(ii) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(iii) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

(3) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(i) is properly licensed or exempt from licensing requirements under this chapter;

(ii) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(iii) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient;

(4) the United States; a department, agency, or instrumentality of the United States; or an agent of the United States;

(5) money transmission by the United States Postal Service or by an agent of the United States Postal Service;

(6) a state; county; city; any other governmental agency, governmental subdivision, or instrumentality of a state; or the state's agent;

(7) a federally insured depository financial institution; bank holding company; office of an international banking corporation; foreign bank that establishes a federal branch pursuant to the International Bank Act, United States Code, title 12, section 3102, as amended or recodified from time to time; or corporation organized under the Edge Act, United States Code, title 12, sections 611 to 633, as amended or recodified from time to time;

(8) electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality of a state; or the state's agent;
or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
instrumentality thereof;
(9) a board of trade designated as a contract market under the federal Commodity
Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from
time to time; or a person that in the ordinary course of business provides clearance and
settlement services for a board of trade to the extent of its operation as or for a board;
(10) a registered futures commission merchant under the federal commodities laws, to
the extent of the registered futures commission merchant's operation as a merchant;
(11) a person registered as a securities broker-dealer under federal or state securities
laws, to the extent of the person's operation as a securities broker-dealer;
(12) an individual employed by a licensee, authorized delegate, or any person exempted
from the licensing requirements under this chapter when acting within the scope of
employment and under the supervision of the licensee, authorized delegate, or exempted
person as an employee and not as an independent contractor;
(13) a person expressly appointed as a third-party service provider to or agent of an
entity exempt under clause (7), solely to the extent that:
(i) the service provider or agent is engaging in money transmission on behalf of and
pursuant to a written agreement with the exempt entity that sets forth the specific functions
that the service provider or agent is to perform; and
(ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying
the outstanding money transmission obligations owed to purchasers and holders of the
outstanding money transmission obligations upon receipt of the purchaser's or holder's
money or monetary value by the service provider or agent;
(14) payroll processing services providers, or
(a) (15) a person exempt by regulation or order if the commissioner finds that (i) the
exemption is in the public interest, and (ii) the regulation of the person is not necessary for
the purposes of this chapter.
Sec. 16. Minnesota Statutes 2022, section 58.02, is amended by adding a subdivision to
read:
Subd. 15a. Nationwide Multistate Licensing System and Registry. "Nationwide
Multistate Licensing System and Registry" has the meaning given in section 58A.02, subdivision 8.
Sec. 17. Minnesota Statutes 2022, section 58.02, subdivision 18, is amended to read:
Subd. 18. Residential mortgage loan. "Residential mortgage loan" means a loan secured
primarily by either: (1) a mortgage, deed of trust, or other equivalent security interest on
residential real property; or (2) certificates of stock or other evidence of ownership
or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
instrumentality thereof;
(9) a board of trade designated as a contract market under the federal Commodity
Exchange Act, United States Code, title 7, sections 1 to 25, as amended or recodified from
time to time; or a person that in the ordinary course of business provides clearance and
settlement services for a board of trade to the extent of its operation as or for a board;
(10) a registered futures commission merchant under the federal commodities laws, to
the extent of the registered futures commission merchant's operation as a merchant;
(11) a person registered as a securities broker-dealer under federal or state securities
laws, to the extent of the person's operation as a securities broker-dealer;
(12) an individual employed by a licensee, authorized delegate, or any person exempted
from the licensing requirements under this chapter when acting within the scope of
employment and under the supervision of the licensee, authorized delegate, or exempted
person as an employee and not as an independent contractor;
(13) a person expressly appointed as a third-party service provider to or agent of an
entity exempt under clause (7), solely to the extent that:
(i) the service provider or agent is engaging in money transmission on behalf of and
pursuant to a written agreement with the exempt entity that sets forth the specific functions
that the service provider or agent is to perform; and
(ii) the exempt entity assumes all risk of loss and all legal responsibility for satisfying
the outstanding money transmission obligations owed to purchasers and holders of the
outstanding money transmission obligations upon receipt of the purchaser's or holder's
money or monetary value by the service provider or agent;
(14) payroll processing services providers, or
(a) (15) a person exempt by regulation or order if the commissioner finds that (i) the
exemption is in the public interest, and (ii) the regulation of the person is not necessary for
the purposes of this chapter.
interest in and proprietary lease from corporations, partnerships, or other forms of business
organizations formed for the purpose of cooperative ownership of residential real estate.

Sec. 18. Minnesota Statutes 2022, section 58.02, subdivision 21, is amended to read:

Subd. 21. *Residential real estate.* “Residential real estate” means real property located
in Minnesota upon which a dwelling, as defined in United States Code, title 15, section
1602(w), is constructed or is intended to be constructed, whether or not the owner occupies
the real property.

Sec. 19. Minnesota Statutes 2022, section 58.04, subdivision 1, is amended to read:

Subdivision 1. *Residential mortgage originator licensing requirements.* (a) No person
shall act as a residential mortgage originator, or make residential mortgage loans without
first obtaining a license from the commissioner according to the licensing procedures
provided in this chapter.

(b) A licensee must be either a partnership, limited liability partnership, association,
limited liability company, corporation, or other form of business organization, and must
have and maintain a surety bond in the amounts prescribed under section 58.08.

(c) The following persons are exempt from the residential mortgage originator licensing
requirements:

1. (1) a person who is not in the business of making residential mortgage loans and who
makes no more than three such loans, with its own funds, during any 12-month period;
2. (2) a financial institution as defined in section 58.02, subdivision 10;
3. (3) an agency of the federal government, or of a state or municipal government;
4. (4) an employee or employer pension plan making loans only to its participants;
5. (5) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a
specific order issued by a court of competent jurisdiction;
6. (6) a person who is a bona fide nonprofit organization that meets all the criteria required
by the federal Secure and Fair Enforcement Licensing Act in Regulation H, adopted pursuant
to Code of Federal Regulations, title 12, part 1008, subpart B, section 1008.103 (e)(7)(i); or
(a) (7) a person exempted by order of the commissioner; or
(b) (8) a manufactured home dealer, as defined in section 327B.01, subdivision 7 or 11b,
or a manufactured home salesperson, as defined in section 327B.01, subdivision 19, that:
(i) performs only clerical or support duties in connection with assisting a consumer in
filling out a residential mortgage loan application but does not in any way offer or negotiate
loan terms, or hold themselves out as a housing counselor;
(ii) does not receive any direct or indirect compensation or gain from any individual or company for assisting consumers with a residential mortgage loan application, in excess of the customary salary or commission from the employer in connection with the sales transaction; and

(iii) discloses to the borrower in writing:

(A) if a corporate affiliation with a lender exists; (B) if a corporate affiliation with a lender exists, that the lender cannot guarantee the lowest or best terms available and the consumer has the right to choose their lender; and (C) if a corporate affiliation with a lender exists, the name of at least one unaffiliated lender.

(d) For the purposes of this subdivision, "housing counselor" means an individual who provides assistance and guidance about residential mortgage loan terms including rates, fees, or other costs.

(e) The disclosures required under paragraph (c), clause (iii), must be made on a one-page form prescribed by the commissioner and developed in consultation with the Manufactured and Modular Home Association. The form must be posted on the department's website.

Subd. 2.

Residential mortgage servicer licensing requirements. (a) Beginning August 1, 1999, no person shall engage in activities or practices that fall within the definition of "servicing a residential mortgage loan" under section 58.02, subdivision 22, without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

(b) The following persons are exempt from the residential mortgage servicer licensing requirements:

(1) a person licensed as a residential mortgage originator; (2) an employee of one licensee or one person holding a certificate of exemption based on an exemption under this subdivision; (3) a person servicing loans made with its own funds, if no more than three such loans are made in any 12-month period; (4) a financial institution as defined in section 58.02, subdivision 10; (5) an agency of the federal government, or of a state or municipal government; (6) an employee or employer pension plan making loans only to its participants;
(7) a person acting in a fiduciary capacity, such as a trustee or receiver, as a result of a specific order issued by a court of competent jurisdiction; 

(8) a person who is a bona fide nonprofit organization that meets all the criteria required by the Federal Secure and Fair Enforcement Licensing Act in Regulation H, Code of Federal Regulations, title 12, part 1008, subpart B, section 1008.103 (e)(7)(ii); or 

Sec. 21. Minnesota Statutes 2022, section 58.05, subdivision 1, is amended to read: 

Subd. 1. Exempt person. (a) An exempt person, as defined by section 58.04, subdivision 1, paragraph (c), and subdivision 2, paragraph (b), is exempt from the licensing requirements of this chapter, but is subject to all other provisions of this chapter. 

(b) Paragraph (a) does not apply to an institution covered under section 58.04, subdivision 4, even if the institution is otherwise an exempt person. 

Sec. 22. Minnesota Statutes 2022, section 58.05, subdivision 3, is amended to read: 

Subd. 3. Certificate of exemption. A person (a) The following persons must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c), clause (3), as defined by section 58.04, subdivision 2, paragraph (b), or any person in control of an applicant must, at a minimum, provide the Nationwide Multistate Licensing System and Registry information concerning the person's identity, including: 

(b) The following persons must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 2, paragraph (b), clause (6); or 

(3) a person exempted by order of the commissioner under section 58.04, subdivision 2, paragraph (b), clause (6). 

Sec. 23. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to read: 

Subd. 5. Background checks. In connection with an application for a residential mortgage loan originator or servicer license, any person in control of an applicant must, at a minimum, provide the Nationwide Multistate Licensing System and Registry information concerning the person's identity, including:
(1) Fingerprints for submission to the Federal Bureau of Investigation and a governmental
agency or entity authorized to receive the information for a state, national, and international
criminal history background check; and
(2) personal history and experience in a form prescribed by the Nationwide Multistate
Licensing System and Registry, including the submission of authorization for the Nationwide
Multistate Licensing System and Registry and the commissioner to obtain:
(i) an independent credit report obtained from a consumer reporting agency described
in United States Code, title 15, section 1681at; and
(ii) information related to administrative, civil, or criminal findings by a governmental
jurisdiction.

Sec. 24. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to
read:

Subd. 6. Requesting and distributing criminal information; agency. For the purposes
of this section and in order to reduce the points of contact the Federal Bureau of Investigation
may have to maintain for purposes of subdivision 5, clauses (1) and (2), the commissioner may
use the Nationwide Multistate Licensing System and Registry as a channeling agent
to request information from and distribute information to the United States Department of
Justice or any governmental agency.

Sec. 25. Minnesota Statutes 2022, section 58.06, is amended by adding a subdivision to
read:

Subd. 7. Requesting and distributing noncriminal information; agency. For the
purposes of this section and in order to reduce the points of contact the commissioner may
have to maintain for purposes of subdivision 5, clause (2), the commissioner may use the
Nationwide Multistate Licensing System and Registry as a channeling agent to request and
distribute information from and to any source, as directed by the commissioner.

Sec. 26. Minnesota Statutes 2022, section 58.08, subdivision 1a, is amended to read:

Subd. 1a. Residential mortgage originators. (a) An applicant for a residential mortgage
originator license must file with the department a surety bond in the amount of $100,000
$125,000, issued by an insurance company authorized to do so in this state. The bond must
cover all mortgage loan originators who are employees or independent agents of the applicant.
The bond must be available for the recovery of expenses, fines, and fees levied by the
commissioner under this chapter and for losses incurred by borrowers as a result of a
licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48,
and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.
(b) The bond must be submitted with the originator's license application and evidence
of continued coverage must be submitted with each renewal. Any change in the bond must
be submitted for approval by the commissioner, within ten days of its execution. The bond
or a substitute bond shall remain in effect during all periods of licensing.

Subd. 1b. Residential mortgage originators. (a) An applicant for a residential mortgage
originator license must file with the department a surety bond in the amount of $100,000
$125,000, issued by an insurance company authorized to do so in this state. The bond must
cover all mortgage loan originators who are employees or independent agents of the applicant.
The bond must be available for the recovery of expenses, fines, and fees levied by the
commissioner under this chapter and for losses incurred by borrowers as a result of a
licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48,
and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.
(b) The bond must be submitted with the originator's license application and evidence
of continued coverage must be submitted with each renewal. Any change in the bond must
be submitted for approval by the commissioner, within ten days of its execution. The bond
or a substitute bond shall remain in effect during all periods of licensing.
(c) Upon filing of the mortgage call report as required by section 58A.17, a licensee shall maintain or increase the licensee's surety bond to reflect the total dollar amount of the closed residential mortgage loans originated in this state in the preceding year according to the table in this paragraph. A licensee may decrease the licensee's surety bond according to the table in this paragraph if the surety bond required is less than the amount of the surety bond on file with the department.

Dollar Amount of Closed Residential Mortgage Loans

Surety Bond Required

<p>| | | | |</p>
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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>$0 to  $5,000,000</td>
<td>$10,000,000</td>
<td>$100,000</td>
<td>$125,000</td>
</tr>
<tr>
<td>$5,000,000 to $10,000,000</td>
<td>$25,000,000</td>
<td>$125,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>$10,000,000 to $25,000,000</td>
<td>$25,000,000</td>
<td>$150,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$100,000,000</td>
<td>$200,000</td>
<td>$300,000</td>
</tr>
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For purposes of this subdivision, "mortgage loan originator" has the meaning given the term in section 58A.02, subdivision 7.

Sec. 27. Minnesota Statutes 2022, section 58.08, subdivision 2, is amended to read: Subd. 2. Residential mortgage servicers. (a) A residential mortgage servicer licensee shall continuously maintain a surety bond or irrevocable letter of credit in an amount not less than $100,000 to $125,000 in a form approved by the commissioner, issued by an insurance company or bank authorized to do so in this state. The bond or irrevocable letter of credit must be available for the recovery of expenses, fines, and fees levied by the commissioner and for losses or damages incurred by borrowers or other aggrieved parties as the result of a licensee's noncompliance with the requirements of this chapter, sections 325D.43 to 325D.48, and 325F.67 to 325F.69, or breach of contract relating to activities regulated by this chapter.

(b) The bond or irrevocable letter of credit must be submitted with the servicer's license application and evidence of continued coverage must be submitted with each renewal. Any change in the bond or letter of credit must be submitted for approval by the commissioner, within ten days of its execution. The bond or a substitute bond must remain in effect during all periods of a license.

(c) Upon filing the mortgage call report under section 58.141, a licensee must maintain or increase the licensee's surety bond to reflect the total dollar amount of unpaid principal balance for residential mortgage loans serviced in Minnesota during the preceding quarter according to the table in this paragraph. A licensee may decrease the licensee's surety bond according to the table in this paragraph if the surety bond required is less than the amount of the surety bond on file with the department.
45.27 according to the table in this paragraph if the surety bond required is less than the amount
45.28 of the surety bond on file with the department.

45.29 Dollar Amount of Unpaid Principal Balance
45.30 for Serviced Residential Mortgage Loans
45.31 $0 to $10,000,000
45.32 $10,000,001 to $50,000,000
45.33 Over $50,000,000

45.34 Surety Bond Required
45.35 $125,000
45.36 $200,000
45.37 $300,000

46.1 Sec. 28. Minnesota Statutes 2022, section 58.10, subdivision 3, is amended to read:
46.2 Subd. 3. Consumer education account; money credited and appropriated. (a) The
46.3 consumer education account is created in the special revenue fund. Money credited to this
46.4 account may be appropriated to the commissioner for: (1) make
46.5 grants to programs and campaigns designed to help consumers avoid being victimized by
46.6 unscrupulous lenders and mortgage brokers; and (2) pay for expenses the commissioner
46.7 incurs to provide outreach and education related to affordable housing and home ownership
46.8 education. The commissioner must give preference for grants to programs
46.9 and campaigns designed by coalitions of public sector, private sector, and nonprofit agencies,
46.10 institutions, companies, and organizations.

46.11 (b) A sum sufficient is appropriated annually from the consumer education account to
46.12 the commissioner to make the grants described in paragraph (a).

46.13 Sec. 29. Minnesota Statutes 2022, section 58.115, is amended to read:
46.14 58.115 EXAMINATIONS.
46.15 The commissioner has under this chapter the same powers with respect to examinations
46.16 that the commissioner has under section 46.04. In addition to the powers under section
46.17 46.04, the commissioner may accept examination reports prepared by a state agency that
46.18 has comparable supervisory powers and examination procedures. The authority under section
46.19 49.411, subdivision 7, applies to examinations of institutions under this chapter.

46.20 Sec. 30. Minnesota Statutes 2022, section 58.13, subdivision 1, is amended to read:
46.21 Subdivision 1. Generally. (a) No person acting as a residential mortgage originator or
46.22 servicer, including a person required to be licensed under this chapter, and no person exempt
46.23 from the licensing requirements of this chapter under section 58.04, except as otherwise
46.24 provided in paragraph (b), shall:
46.25 (1) fail to maintain a trust account to hold trust funds received in connection with a
46.26 residential mortgage loan;
(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, paragraph (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law; mortgage loans including, without limitation, sections 47.20 to 47.208 and 47.58;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coercively or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person

(2) fail to deposit all trust funds into a trust account within three business days of receipt; commingle trust funds with funds belonging to the licensee or exempt person; or use trust account funds for any purpose other than that for which they are received;

(3) unreasonably delay the processing of a residential mortgage loan application, or the closing of a residential mortgage loan. For purposes of this clause, evidence of unreasonable delay includes but is not limited to those factors identified in section 47.206, subdivision 7, paragraph (d);

(4) fail to disburse funds according to its contractual or statutory obligations;

(5) fail to perform in conformance with its written agreements with borrowers, investors, other licensees, or exempt persons;

(6) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property law; mortgage loans including, without limitation, sections 47.20 to 47.208 and 47.58;

(8) violate any provision of any other applicable state or federal law regulating residential mortgage loans including, without limitation, sections 47.20 to 47.208 and 47.58;

(9) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a residential loan transaction including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any mortgage product;

(10) conduct residential mortgage loan business under any name other than that under which the license or certificate of exemption was issued;

(11) compensate, whether directly or indirectly, coercively or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by a residential mortgage or is being offered as security according to an application for a residential mortgage loan;

(12) issue any document indicating conditional qualification or conditional approval for a residential mortgage loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(13) make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure;

(14) provide or offer to provide for a borrower, any brokering or lending services under an arrangement with a person other than a licensee or exempt person, provided that a person
may rely upon a written representation by the residential mortgage originator that it is in
compliance with the licensing requirements of this chapter;

(15) claim to represent a licensee or exempt person, unless the person is an employee
of the licensee or exempt person or unless the person has entered into a written agency
agreement with the licensee or exempt person;

(16) fail to comply with the record keeping and notification requirements identified in
section 58.14 or fail to abide by the affirmations made on the application for licensure;

(17) represent that the licensee or exempt person is acting as the borrower's agent after
providing the nonagency disclosure required by section 58.15, unless the disclosure is
retracted and the licensee or exempt person complies with all of the requirements of section
58.16;

(18) make, provide, or arrange for a residential mortgage loan that is of a lower investment
grade if the borrower's credit score or, if the originator does not utilize credit scoring or if
a credit score is unavailable, then comparable underwriting data, indicates that the borrower
may qualify for a residential mortgage loan, available from or through the originator, that
is of a higher investment grade, unless the borrower is informed that the borrower may
qualify for a higher investment grade loan with a lower interest rate and/or lower discount
points, and consents in writing to receipt of the lower investment grade loan;

For purposes of this section, "investment grade" refers to a system of categorizing
residential mortgage loans in which the loans are distinguished by interest rate or discount
points or both charged to the borrower, which vary according to the degree of perceived
risk of default based on factors such as the borrower's credit, including credit score and
credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior
bankruptcy or foreclosure;

(19) make, publish, disseminate, circulate, place before the public, or cause to be made,
directly or indirectly, any advertisement or marketing materials of any type, or any statement
or representation relating to the business of residential mortgage loans that is false, deceptive,
or misleading;

(20) advertise loan types or terms that are not available from or through the licensee or
exempt person on the date advertised, or on the date specified in the advertisement. For
purposes of this clause, advertisement includes, but is not limited to, a list of sample mortgage
terms, including interest rates, discount points, and closing costs provided by licensees or
exempt persons to a print or electronic medium that presents the information to the public;

(21) use or employ phrases, pictures, return addresses, geographic designations, or other
means that create the impression, directly or indirectly, that a licensee or other person is a
governmental agency, or is associated with, sponsored by, or in any manner connected to,
related to, or endorsed by a governmental agency, if that is not the case;

(22) violate section 82.77, relating to table funding;
(23) make, provide, or arrange for a residential mortgage loan all or a portion of the
proceeds of which are used to fully or partially pay off a "special mortgage" unless the
borrower has obtained a written certification from an authorized independent loan counselor
that the borrower has received counseling on the advisability of the loan transaction. For
purposes of this section, "special mortgage" means a residential mortgage loan originated,
subsidized, or guaranteed by or through a state, tribal, or local government, or nonprofit
organization, that bears one or more of the following nonstandard payment terms which
substantially benefit the borrower: (i) payments vary with income; (ii) payments of principal
or interest are not required or can be deferred under specified conditions; (iii) principal or
interest is forgivable under specified conditions; or (iv) where no interest or an annual
interest rate of two percent or less is charged in connection with the loan. For purposes of
this section, "authorized independent loan counselor" means a nonprofit, third-party
individual or organization providing home buyer education programs, foreclosure prevention
services, mortgage loan counseling, or credit counseling certified by the United States
Department of Housing and Urban Development, the Minnesota Home Ownership Center,
the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks
America;

(24) make, provide, or arrange for a residential mortgage loan without verifying the
borrower's reasonable ability to pay the scheduled payments of the following, as applicable:
principal; interest; real estate taxes; homeowner's insurance, assessments, and mortgage
insurance premiums. For loans in which the interest rate may vary, the reasonable ability
to pay shall be determined based on a fully indexed rate and a repayment schedule which
achieves full amortization over the life of the loan. For all residential mortgage loans, the
borrower's income and financial resources must be verified by tax returns, payroll receipts,
bank records, or other similarly reliable documents.

Nothing in this section shall be construed to limit a mortgage originator's or exempt
person's ability to rely on criteria other than the borrower's income and financial resources
to establish the borrower's reasonable ability to repay the residential mortgage loan, including
criteria established by the United States Department of Veterans Affairs or the United States
Department of Housing and Urban Development for interest rate reduction refinancing loans
or streamline loans, or criteria authorized or promulgated by the Federal National Mortgage
Association or Federal Home Loan Mortgage Corporation; however, such other criteria
must be verified through reasonably reliable methods and documentation. The mortgage
originator's analysis of the borrower's reasonable ability to repay may include, but is not
limited to, consideration of the following items, if verified: (1) the borrower's current and
expected income; (2) current and expected cash flow; (3) net worth and other financial
resources other than the consumer's equity in the dwelling that secures the loan; (4) current
financial obligations; (5) property taxes and insurance; (6) assessments on the property; (7)
employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax
returns; (12) pension statements; and (13) employment payment records, provided that no
mortgage originator shall disregard facts and circumstances that indicate that the financial
or other information submitted by the consumer is inaccurate or incomplete. A statement

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employment status; (8) credit history; (9) debt-to-income ratio; (10) credit scores; (11) tax
returns; (12) pension statements; and (13) employment payment records, provided that no
mortgage originator shall disregard facts and circumstances that indicate that the financial
or other information submitted by the consumer is inaccurate or incomplete. A statement
by the borrower to the residential mortgage originator or exempt person of the borrower's income and resources or sole reliance on any single item listed above is not sufficient to establish the existence of the income or resources when verifying the reasonable ability to pay;

(25) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances. In order to demonstrate a reasonable, tangible net benefit to the borrower, the circumstances must be documented in writing and must be signed by the borrower and lender three days before the closing date.

The written analysis must, with respect to the prior loan and the new loan, document the:

(i) origination date; (ii) loan amount; (iii) loan balance; (iv) loan term; (v) loan program; (vi) type of loan; (vii) interest rate; (viii) monthly amount of principal and interest paid; (ix) monthly amount of private mortgage insurance paid; (x) loan purpose; (xi) loan origination cost; (xii) cash to borrower, if applicable; and (xiii) time to recoup the loan cost, if applicable; expressed in months;

(26) the first time a residential mortgage originator orally informs a borrower of the anticipated or actual periodic payment amount for a first-lien residential mortgage loan which does not include an amount for payment of property taxes and hazard insurance, the residential mortgage originator must inform the borrower that an additional amount will be due for taxes and insurance and, if known, disclose to the borrower the amount of the anticipated or actual periodic payments for property taxes and hazard insurance. This same oral disclosure must be made each time the residential mortgage originator orally informs the borrower of a different anticipated or actual periodic payment amount change from the amount previously disclosed. A residential mortgage originator need not make this disclosure if the borrower's existing loan that is anticipated to be refinanced does not have an escrow account; or

(27) make, provide, or arrange for a residential mortgage loan, other than a reverse mortgage pursuant to United States Code, title 15, chapter 41, if the borrower's compliance with any repayment option offered pursuant to the terms of the loan will result in negative amortization during any six-month period.

(b) Paragraph (a), clauses (24) through (27), do not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a residential mortgage loan originated or purchased by a state agency or a tribal or local unit of government. This paragraph supersedes any inconsistent provision of this chapter.

Sec. 31. 58.141 REPORTS AND UNIQUE IDENTIFIER. Subdivision 1. Mortgage call reports. A residential mortgage originator or servicer must submit reports of condition to the Nationwide Multistate Licensing System and Registry.
Reports submitted under this subdivision must be in the form and contain the information required by the Nationwide Multistate Licensing System and Registry.

Subd. 2. Report to Nationwide Multistate Licensing System and Registry. Subject to section 58A.14, the commissioner must regularly report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Multistate Licensing System and Registry.

Subd. 3. Unique identifier; display. The unique identifier of any person originating a residential mortgage loan must be clearly displayed on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents the commissioner establishes by rule or order.

Sec. 32. [60M.01] DEFINITIONS.

Subdivision 1. Terms. For the purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. Bail bond. "Bail bond" is an instrument that is the tool utilized to guarantee the appearance of an individual and secure the monetary requirement of the bond.

Subd. 3. Bail bond agency. "Bail bond agency" means an agency contracted by a surety to supervise or otherwise manage the bail bond business written in Minnesota by producers appointed by the surety.

Subd. 4. Commissioner. "Commissioner" means the commissioner of commerce.

Subd. 5. Department. "Department" means the Department of Commerce.

Subd. 6. Depositor. "Depositor" means:

1. an individual that has paid money to a surety, bail bond agency, or producer as premium or premium towards a bail bond product transaction, as defined in section 60M.02; or

2. an individual that deposited money, property, or assets with a surety, bail bond agency, or producer to be held as collateral or used towards the liability of a bail bond product transaction, as defined in section 60M.03.

Subd. 7. Negotiate. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular insurance contract concerning any of the substantive benefits, terms, or conditions of the contract, if the person engaged in the act either sells insurance or obtains insurance from insurers for purchasers.

Subd. 8. Net premium. "Net premium" means a bond's premium, less any commission agreed to in advance and in writing between a producer and the surety or bail bond agency.
Subd. 9. Personal information. "Personal information" has the meaning given in section 72A.491, subdivision 17.

Subd. 10. Principal. "Principal" is an individual who has engaged with a bail bond agency or producer to arrange for the individual's bail bond to be posted on the individual's behalf, securing the individual's release pretrial on a bail bond.

Subd. 11. Privileged information. "Privileged information" has the meaning given in section 72A.491, subdivision 19.

Subd. 12. Producer. "Producer" means a person that is licensed to write bail bonds, has been approved by the state court administrator's office, is a contractor or employee for a bail bond agency, and is appointed by a surety to execute or countersign bail bonds for that surety in connection with judicial proceedings.


Subd. 14. Surety. "Surety" means a domestic, foreign, or alien insurance company that is licensed to transact surety business in Minnesota under section 60A.06.

Sec. 33. [60M.02] PREMIUMS.

Subdivision 1. Premiums; generally. (a) Regardless of whether a producer is an employee or an independent contractor, a producer must charge the approved, filed rate of the surety being used to post a bail bond. Except as provided in subdivision 2 or in a situation where cash bail is set by the court under subdivision 5, the rate charged must not be less than the surety's filed rate.

(b) A producer is prohibited from providing a premium rebate.

(c) A producer may charge travel or other related fees, provided the producer complies with section 60K.46, subdivision 2.

Subd. 2. Minimum premium. A producer must charge a minimum premium of $100. Any premium amount must be included in the surety's rate filing with the commissioner.

Subd. 3. Bail bonds less than $10,000. (a) A producer is prohibited from posting a bail bond with a penal sum of $10,000 or less unless the producer has:

(1) received at least 50 percent of the total premium owed under the surety's rate filing;
(2) provided the depositor with a receipt that indicates the premium paid; and
(3) if the full premium is not collected before posting the bond, a signed promissory note must be obtained requiring the unpaid premium in full within four months of the date the bond is posted.

(b) A promissory note issued under paragraph (a), clause (3), must be made on a surety or bail bond agency form as approved by the commissioner. The maximum annual interest
rate allowed on a promissory note under this subdivision is six percent. A promissory note may authorize collection of the actual costs incurred to collect the premium, including reasonable attorney fees, in the event of a default.

Subd. 4. Bail bonds greater than $10,000. (a) A producer is prohibited from posting a bail bond with a penal sum greater than $10,000 unless the producer has:

(1) received at least 30 percent of the total premium owed under the surety's rate filing;

(2) provided the depositor with a receipt that indicates the premium paid; and

(3) if the full premium is not collected before posting the bond, a signed promissory note must be obtained requiring the unpaid premium in full within 12 months of the date the bond is posted.

(b) A promissory note issued under paragraph (a), clause (3), must be made on a surety or bail bond agency form as approved by the commissioner. The maximum annual interest rate allowed on a promissory note under this subdivision is six percent. A promissory note may authorize collection of the actual costs incurred to collect the premium, including reasonable attorney fees, in the event of a default.

Subd. 5. Alternative premium structure. (a) A bail bond agency or producer may include an alternative premium structure as part of the bail bond agency or producer's surety rate filing submitted to the commissioner.

(b) If a court sets cash bail at 15 percent or less of the bond's penal amount, a surety, bail bond agency, or producer may charge an alternative premium that is as low as one-half of the cash bail amount set by the court. An alternative premium charged under this subdivision is subject to the minimum premium requirement under subdivision 2.

(c) A bail bond agency or producer is required to obtain from the court documentation indicating the cash bail amount set by the court and must maintain the documentation in the bond file.

(d) A bail bond agency and producer must maintain a log of all bonds where an alternative premium was charged under this subdivision.

(e) Subdivisions 3 and 4 apply to the payment of an alternative premium structure under this subdivision.

Subd. 6. Late payments. If a payment, including a minimum monthly payment, that is required under a promissory note executed pursuant to subdivision 3 or 4 is more than 90 days late, the bail bond agency or producer must, within 20 days of the date a payment becomes 90 days late:

(1) for amounts owed that are $2,500 or less, assign the debt to a Minnesota-licensed debt collector; or
(2) for amounts owed that are greater than $2,500:

(i) file a civil action against the delinquent premium payer; and

(ii) make all reasonable efforts to:

(A) serve a summons and complaint;

(B) enter judgment, unless the matter is settled while the action is pending; and

(C) enforce the judgment, which may be satisfied by assigning the debt to a licensed
debt collector.

Subd. 7. Form of payment. A surety, bail bond agency, or producer may only accept
cash, money orders, checks, wire transfers, electronic funds transfers, debit cards, prepaid
cash cards, or credit cards as a premium payment method. Any balance owed must be
evidenced by a promissory note, as provided under subdivision 3 or 4.

Subd. 8. Premium trust account. (a) A payment made to or received by the producer,
bail bond agency, or surety must be deposited into a premium trust account that is maintained
by the producer, bail bond agency, or surety within seven business days:

(b) A premium trust account must be used only for premium payments and travel or
other related fees authorized under subdivision 1, paragraph (c). A producer, bail bond
agency, or surety is prohibited from depositing any other money into a premium trust
account:

(c) A deposit into a premium trust account must be accompanied by a deposit slip that:

(1) separately designates the principal; and

(2) lists the power of attorney number of the bond for which the payment is being
collected;

(d) Money may be withdrawn from a premium trust account only to:

(1) pay the net premium to the surety or bail bond agency;

(2) pay a surety or bail bond agency any build-up fund or escrow account required by
a contract executed by the producer and the surety or bail bond agency;

(3) pay or reimburse travel or other related fees authorized under subdivision 1, paragraph
(c);

(4) pay or reimburse the producer any fees or charges deducted electronically by credit
card processing vendors, provided the fees and charges comply with section 60K.46,
subdivision 2; and

(5) distribute any excess amounts to the operating account.
Sec. 34. [60M.03] COLLATERAL.

Subdivision 1. Collateral generally. When collateral is accepted, the producer, surety, or bail bond agency must provide a written and numbered receipt to the depositor. The receipt must:

1. contain the date; depositor's name and address; bail bond agency's name and address; surety's name and address; defendant's name; bond amount; and cash amount or a detailed description of the collateral, if the collateral is not cash; and

2. be signed by:

   i. the producer, surety, or bail bond agency; and

   ii. the depositor.

Subd. 2. Collateral received; transfer; control.

(a) Except as otherwise provided under paragraph (b), a producer or bail bond agency must transfer all cash and noncash collateral that the producer or bail bond agency receives to the surety.

(b) A surety may, at the surety's discretion, permit: (1) a producer to transfer all cash and noncash collateral that the producer receives to the bail bond agency; and (2) the bail bond agency to retain possession and control over the cash and noncash collateral without transferring the cash and noncash collateral to the surety. If a surety exercises the surety's discretion under this paragraph, the bail bond agency assumes the surety's responsibilities and responsibilities under this section. A producer is prohibited from retaining possession or control of cash or noncash collateral beyond the time periods established in this section.

Subd. 3. Cash collateral trust account.

(a) All cash collateral must be deposited into a cash collateral account maintained by a surety or bail bond agency as provided in subdivision 2, paragraph (b), within seven business days of the date the cash collateral is received.

(b) All checks, money orders, wire transfers, or similar money transfer for collateral must be made payable to the bail bond agency and deposited into the surety's or bail bond agency's collateral account within ten business days of the date the payment was received.

(c) When required by law, a bail bond agency or producer must: (1) file an IRS Form 8300 and informational notice; and (2) retain a copy of the filed IRS Form 8300 and informational notice in the bail bond agency's or producer's files.

Subd. 4. Separate cash collateral account.

At the surety's discretion, the surety or a bail bond agency may maintain a separate cash collateral trust account. A cash collateral trust account may be an interest-bearing account or a noninterest-bearing account. If the separate cash collateral trust account is an interest-bearing account, the interest earned is for the benefit of the depositor.
Subd. 5. **Surety liable.** The surety is liable to return any cash or noncash collateral that a producer or bail bond agency collects, less any amounts owed under subdivision 9, paragraph (b), even if the collected collateral is not transferred to the surety.

Subd. 6. **Prohibitions.** (a) A surety, bail bond agency, or producer is prohibited from collecting cash collateral in excess of the bond's penal sum. A surety, bail bond agency, or producer is prohibited from collecting physical collateral that may be considered unreasonably higher than the excess of the bond's penal sum, based upon fair market value, less any outstanding liabilities or lien at the time of the transaction.

(b) A surety, bail bond agency, or producer is prohibited from using collateral for personal benefit or gain.

(c) A surety, bail bond agency, or producer is prohibited from taking a quitclaim deed on real property as collateral for a bond.

Subd. 7. **Collateral log.** (a) A bail bond agency or producer must maintain a collateral log that includes:

1. the power of attorney number;
2. the principal's name;
3. the depositor's name;
4. the cash collateral amount, including whether the cash collateral is being held in an interest-bearing account;
5. if the collateral is noncash collateral, a detailed description of the collateral;
6. the date the collateral was taken; and
7. the dates the collateral was sent to the surety, returned to the depositor, liquidated, or applied to a loss or cost incurred by the producer, bail bond agency, or surety.

(b) For purposes of paragraph (a), an indemnity agreement does not constitute collateral and is not required to be included in the collateral log. For purposes of paragraph (a), clause (7), the amount of a loss incurred must be listed separately from other costs in the collateral log.

Subd. 8. **Mortgages and deeds of trust.** (a) A mortgage or deed of trust taken as collateral for a bond must name the surety as a mortgagee. At the discretion of the surety, a bail bond agency may be named as the mortgagee in lieu of the surety being named as the mortgagee.

(b) A producer is prohibited from being named as a mortgagee for a mortgage or deed of trust taken as collateral for a bond.

Subd. 9. **Return of collateral.** (a) A surety or bail bond agency that controls the collateral must return cash and noncash collateral to the depositor named in the collateral receipt.
within 21 days of the date the depositor provides the surety or bail bond agency with written proof that the bond has been discharged.

(b) If the depositor owes the surety, bail bond agency, or producer a premium; is liable for a loss or expense related to a breach of the bond; or is liable pursuant to the terms of an indemnity or other agreement, the surety or bail bond agency may retain from the collateral all money required to satisfy the depositor's debts.

g) If all of the depositor's debts secured by collateral are satisfied, the surety or bail bond agency must provide documentation to release any liens, security interests, mortgages, or other security interests that were filed or obtained in relation to the collateral. The documentation must be provided within 21 days of the date the depositor provides the surety or bail bond agency with written proof that the bond has been discharged.

Subd. 10. Bond or indemnity agreement; breach. If a bond or indemnity agreement is breached and the surety, bail bond agency, or producer suffers a loss, the surety or bail bond agency that controls the collateral must send to the depositor written notice that notifies the depositor that the surety or bail bond agency intends to liquidate noncash collateral. The written notice must be sent by certified mail to the depositor's last known address at least 30 days before the date the surety or bail bond agency liquidates the noncash collateral.

Subd. 11. Compliance with Minnesota law. Any action taken to enforce or foreclose on cash or noncash collateral must comply with Minnesota law.

Subd. 12. Collateral documentation; audit and inspection. (a) All collateral and related documentation held in trust by the surety or bail bond agency must be made available for immediate audit and inspection by the department.

(b) All collateral and related documentation held in trust by the bail bond agency must be made available for immediate audit and inspection by the surety.

Sec. 35. [60M.04] PRODUCER AUDITS.

Subdivision 1. Premium audits. (a) By April 30 each year, a surety must audit each licensed bail bond producer's bonds written during the previous calendar year to ensure the licensed bail bond producer has complied with this subdivision.

(b) The premium audits must include a review of an adequate sample of bonds written by each bail bond producer. A review sample is adequate if it consists of the lesser of: (1) 20 percent of the bonds written by the bail bond producer; (2) 24 bonds; or (3) all of the bonds written by the bail bond producer, if the bail bond producer wrote fewer than 12 bonds during the previous calendar year. The audit sample must include the four largest bonds written by the bail bond producer and four bonds that charged an alternative premium under section 60M.02, subdivision 5, if applicable. Of the remaining bonds audited and to the extent the quantity of bonds supports the percentages, 50 percent must be randomly selected.
selected bonds with a penal sum that is $10,000 or less, and 50 percent must be randomly
selected bonds with a penal sum that is greater than $10,000.

59.14 (c) The premium audit must be conducted at the producer's office or the bail bond
agency's office, depending on which entity maintains the physical records. The surety must
not disclose to the producer or bail bond agency, or anyone affiliated with the surety or bail
bond agency, which files the surety intends to audit until the surety's on-site audit of the
producer begins.

59.20 (d) For each bond audited, the surety must confirm that:

59.21 (1) the proper premium was charged and collected, including a review of the premium
account statements and deposit slips;

59.23 (2) a proper premium receipt is in the producer's file;

59.24 (3) if the full premium was not paid before the bond was posted, a proper promissory
note was executed; and

59.25 (d) if the premium was not paid as required, the producer complied with section 60M.02,

60.3 subdivision 6.

59.28 (e) An annual premium audit under this section must also include a follow-up review
of each bond audited the previous year for which full premium had not yet been collected
at the time the audit occurred. For each bond subject to a follow-up review, the surety must:

59.31 (1) review the premium account and deposit slips to confirm that the full premium was
collected; or

59.32 (2) if full payment of the premium was not received, confirm that the producer complied
with section 60M.02, subdivision 6.

60.1 (f) A bail bond agency or producer is prohibited from acting on behalf of the surety to
conduct the bail bond agency's or producer's own bail bond agency or producer audits.

Subd. 2. Collateral audits. (a) By April 30 each year, a surety must audit each licensed
bail bond producer's bonds written during the previous calendar year to ensure the licensed
bail bond producer has complied with this subdivision;

60.8 (b) A collateral audit under this subdivision must include confirmation that:

60.9 (1) a collateral log was maintained;

60.10 (2) a cash collateral account exists;

60.11 (3) the balance of the cash collateral indicated on the collateral log is identical to the
amount held in the collateral trust account; and
a collateral receipt exists for collateral collected, as represented by a sampling of the
lesser of: (i) 20 percent of all bonds secured by collateral; or (ii) 12 bonds that were secured
by collateral.
Subd. 3. Audits report. (a) By May 31 each year, a surety must prepare a report of the
audits conducted under this section during that year. The report must include:
(1) a list of the bonds audited under subdivision 1 for each producer, including the power
of attorney number used for each audited bond and whether full premium payment was
made by the date the audit occurred;
(2) a list of the bonds included in a follow-up review of the previous year's audit,
including whether full premium payment was collected by the date the audit occurred;
(3) the compliance certifications required under section 60M.07, subdivision 4; and
(4) details regarding any violations discovered during the audit or a statement that no
violations were discovered, as applicable.
(b) The annual report under this subdivision must be maintained for a period of at least
36 months from the date the report is complete. Annual reports must be submitted to the
commissioner by June 30 each year.
Sec. 36. [60M.05] SOLICITATION.
Subdivision 1. Solicitation generally. (a) A producer is prohibited from, in or on the
grounds of a jail, prison, or other location where an incarcerated person is confined, or in
or on the grounds of a court unless requested by the principal, a potential indemnitor, or the
legal counsel of a principal:
(1) approaching, enticing, inviting, or soliciting a person to use a bail bonds's services;
(2) distributing, displaying, or wearing an item that advertises a bail bonds's services;
(3) no producer or bail bond agency is permitted to solicit by calling or leaving messages
for principals on jail phones or any other messaging devices available to principals, while
in custody; or
(4) no producer or bail bond agency is permitted to place money on the canteen or books
of any individual held in custody.
(b) Notwithstanding paragraph (a), clause (3), permissible print advertising in a jail is
limited to:
(1) a listing in a telephone directory; and
(2) posting the producer's or bail bond agency's name, address, and telephone number
in a designated location within the jail, as approved by the jail.
Subd. 2. Identification; marketing material. A producer is prohibited from wearing or displaying any information, other than identification approved by the surety or bail bond agency, which constitutes marketing material that a surety or bail bond agency must approve and maintain under Minnesota Rules, chapter 2790. A producer is prohibited from displaying any information constituting marketing material in or on the property or grounds of: (1) a jail, prison, or other location where incarcerated people are confined; or (2) a court.

Subd. 3. Other prohibited conduct. (a) A producer is prohibited from loitering in or about the courthouse, jail, or any other place where individuals are held in custody.

(b) A producer is prohibited from making unauthorized and unsolicited cold calls without having first spoken with the principal.

(c) A producer is prohibited from soliciting a bond to a person by recorded or electronic communication, or by live telephone contact, unless the producer otherwise complies with applicable state and federal law, including but not limited to:

(1) the National Do Not Call Registry under Code of Federal Regulations, title 16, part 310; and


(d) A surety, bail bond agency, or producer is prohibited from obtaining a credit check on a person unless the person has authorized the surety, bail bond agency, or producer to do so in writing. The surety, bail bond agency, or producer must retain the written authorization provided by the person subject to the credit check.

Subd. 4. Compliance with other law. (a) A surety, bail bond agency, and producer must comply with all federal and state privacy laws related to information provided to a producer during the application process and during bond underwriting by a bond principal, indemnitee, or other person.

(b) A surety, bail bond agency, and producer must comply with sections 60K.46, subdivision 6; 72A.494; 72A.496, subdivision 1; 72A.501; and 72A.502, subdivision 1.

(c) A surety, bail bond agency, and producer must receive preauthorization before collecting and disclosing personal or privileged information about an applicant or proposed insured, and must provide all notices otherwise required by Minnesota law.

(d) A surety, bail bond agency, and producer must otherwise comply with all applicable Minnesota law.

Subd. 5. Insurance transaction. The act of soliciting, underwriting, negotiating, or selling a bail bond constitutes an insurance transaction.
 Sec. 37. [60M.06] UNLICENSED INDIVIDUALS; NO REBATES OR PAYMENT.  

(a) With the exception of a contracted bail enforcement agent offering a reward for information that assists in the location and apprehension of a principal under section 629.63, a surety, bail bond agency, or producer is prohibited from paying a fee or commission, or otherwise giving or promising anything of value, to: (1) a jailer, police officer, peace officer, or any other person who has the power to arrest or hold an individual in custody; or (2) a judge, public official, or public employee.

(b) A surety, bail bond agency, or producer is prohibited from paying a fee or rebate, or otherwise giving or promising anything of value, to the individual seeking the producer's services or the individual seeking the producer's services on another individual's behalf.

(c) A surety, bail bond agency, or producer is prohibited from paying a fee or commission, or otherwise giving or promising anything of value, to a person for selling, soliciting, or negotiating a bail bond if the person is not properly licensed as a producer.

(d) A surety, bail bond agency, or producer is prohibited from paying a fee, rebate, or commission, or otherwise giving or promising anything of value, to an inmate for referring business or for any other reason related to soliciting, negotiating, or selling a bail bond.

Sec. 38. [60M.07] OTHER PROVISIONS.

Subd. 1. Compliance with standards of conduct. A producer must comply with the Minnesota Court Administrator's Office's bail bond procedures and standards of conduct, including but not limited to while in or on the property of courts, jails, or other detention facilities in Minnesota. A surety or bail bond agency must require the surety or bail bond agency's producers to affirm that the producer complies with any changes to the bail bond procedures and standards of conduct as the changes are posted to the Minnesota state court website or the Minnesota Court Administrator's Office's website.

Subd. 2. No waiver. A producer is prohibited from soliciting or accepting a waiver of any requirement under this chapter.

Subd. 3. Record maintenance. (a) A bail bond agency and producer must maintain the following records on each bond for at least seven years after the date the bond is terminated:

1. power of attorney;
2. premium receipts;
3. the promissory note for unpaid premium, if any;
4. the cash bond amount set by the court, if an amount less than the filed rate is accepted for the premium;
5. all documents related to any lawsuit filed to collect the premium;
63.22 (6) indemnity agreements;
63.23 (7) collateral receipts, if any;
63.24 (8) proof that collateral was returned, if any;
63.25 (9) proof of bond exoneration or forfeiture payment;
63.26 (10) all records relating to liquidating and converting collateral, including fees or costs;
63.27 and
63.28 (11) proof of any expenses incurred or losses paid by the surety, bail bond agency, or
63.29 producer.
64.1 (b) A bail bond agency and producer must maintain all premium account, collateral
64.2 account, and operating account bank records, including deposit slips, for at least seven years
64.3 after the records are made available.
64.4 (c) All records that a bail bond agency or producer maintain under this chapter must be
64.5 kept in the bail bond agency or producer's office or storage location, as applicable. If a bail
64.6 bond agency or producer's relationship with a surety is terminated, the information and
64.7 documentation must be immediately transferred to:
64.8 (1) the bail bond agency, if the producer is terminated; or
64.9 (2) the surety, if the bail bond agency is terminated.
64.10 (d) A bail bond agency and producer's records must be available for the commissioner
64.11 or the surety to inspect, with or without notice.
64.12 Subd. 4. Compliance certification. (a) During the surety's annual audit of a producer,
64.13 the producer must sign a compliance certification form that attests to the producer's
64.14 compliance with this chapter during the previous calendar year.
64.15 (b) Before a producer is appointed by a surety and at each license renewal thereafter, a
64.16 producer must sign an affidavit of compliance form in which the producer acknowledges
64.17 the producer is familiar and continually complies with the requirements under this chapter.
64.18 The surety must retain completed affidavits and send requested affidavits to the commissioner
64.19 within ten days of the date an affidavit is requested.
64.20 (c) The commissioner must establish the compliance certification and affidavit of
64.21 compliance forms for use under this subdivision.
64.22 Subd. 5. Producer termination; notice. (a) If a producer's relationship with a surety is
64.23 voluntarily or involuntarily terminated due to a violation of this chapter or because the
64.24 surety determined the producer violated this chapter during an annual audit, the surety must
64.25 within 30 days of the date the producer is terminated, provide the commissioner with the
64.26 terminated producer's name and the reason the producer was terminated.
(b) Another surety is prohibited from appointing a producer subject to a termination under paragraph (a) unless the department approves the appointment.

Subd. 6. Access to information. A surety, bail bonds agency, and producer are considered a government associated entity and are allowed to apply and be granted access to the Minnesota Government Access system under the Court Access Rules.

Subd. 7. Surrender of a principal for bail revocation. The courts, jails, and sheriff offices in Minnesota must comply with section 629.63, allowing for a principal to be surrendered and received by the jail of the county that the bail bond was originated from and to be held in custody until the principal can have a court hearing where the surety, bail bond agency, or producer can give evidence and make motion for the revocation and discharge of the bail bond.

Subd. 8. Forfeiture timing requirement. The court must order a bail bond forfeited and send notice to the surety, bail bond agency, or producer no later than 30 days from the date of a principal failing to appear at a scheduled hearing. If a court fails to forfeit a bail bond within 30 days of a principal failing to appear or fail to send notice within seven days of the forfeiture to the surety, bail bond agency, or producer, the court must allow for a reinstatement and discharge of the bail bond without penalty. If a court fails to take action against the bail bond within 30 days of a principal failing to appear at a hearing, the court must allow for revocation and discharge without penalty.

Sec. 4. Minnesota Statutes 2023 Supplement, section 80A.50, is amended to read:

80A.50 SECTION 302; FEDERAL COVERED SECURITIES; SMALL CORPORATE OFFERING REGISTRATION.

(a) Federal covered securities.

(1) Required filing of records. With respect to a federal covered security, as defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not otherwise exempt under sections 80A.45 through 80A.47, a rule adopted or order issued under this chapter may require the filing of any or all of the following records:

(A) before the initial offer of a federal covered security in this state, all records that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933 and a consent to service of process complying with section 80A.88 signed by the issuer;

(B) after the initial offer of the federal covered security in this state, all records that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933; and

(C) to the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this state, if the sales data are not included in records filed with the Securities and Exchange Commission.
(2) Notice filing effectiveness and renewal. A notice filing under subsection (a) is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the Securities and Exchange Commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed. A previously filed consent to service of process complying with section 80A.88 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(3) Notice filings for federal covered securities under section 18(b)(4)(D). With respect to a security that is a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 80A.88 signed by the issuer not later than 15 days after the first sale of the federal covered security in this state.

(4) Stop orders. Except with respect to a federal security under Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state.

If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator.

(b) Small corporation offering registration.

(1) Registration required. A security meeting the conditions set forth in this section may be registered as set forth in this section.

(2) Availability. Registration under this section is available only to the issuer of securities and not to an affiliate of the issuer or to any other person for resale of the issuer's securities.

The issuer must be organized under the laws of one of the states or possessions of the United States. The securities offered must be exempt from registration under the Securities Act of 1933 pursuant to Rule 504 of Regulation D (15 U.S.C. Section 77c). Registration under this section is not available to any of the following issuers:

(A) an issuer subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934;

(B) an investment company;

(C) a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person;

Notice filings for federal covered securities under section 18(b)(4)(D). With respect to a security that is a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 80A.88 signed by the issuer not later than 15 days after the first sale of the federal covered security in this state.

Stop orders. Except with respect to a federal security under Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the administrator finds that there is a failure to comply with a notice or fee requirement of this section, the administrator may issue a stop order suspending the offer and sale of a federal covered security in this state.

If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the administrator.

(b) Small corporation offering registration.

(1) Registration required. A security meeting the conditions set forth in this section may be registered as set forth in this section.

(2) Availability. Registration under this section is available only to the issuer of securities and not to an affiliate of the issuer or to any other person for resale of the issuer's securities.

The issuer must be organized under the laws of one of the states or possessions of the United States. The securities offered must be exempt from registration under the Securities Act of 1933 pursuant to Rule 504 of Regulation D (15 U.S.C. Section 77c). Registration under this section is not available to any of the following issuers:

(A) an issuer subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934;

(B) an investment company;

(C) a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person;
(D) an issuer if the issuer or any of its predecessors, officers, directors, governors, partners, ten percent stock or equity holders, promoters, or any selling agents of the securities to be offered, or any officer, director, governor, or partner of the selling agent:

(i) has filed a registration statement that is the subject of a currently effective registration stop order entered under a federal or state securities law within five years before the filing of the small corporate offering registration application;

(ii) has been convicted within five years before the filing of the small corporate offering registration application of a felony or misdemeanor in connection with the offer, purchase, or sale of a security or a felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(iii) is currently subject to a state administrative enforcement order or judgment entered by a state securities administrator or the Securities and Exchange Commission within five years before the filing of the small corporate offering registration application, or is subject to a federal or state administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years before the filing of the small corporate offering registration application;

(iv) is currently subject to an order, judgment, or decree of a court of competent jurisdiction temporarily restraining or enjoining, or is subject to an order, judgment, or decree of a court of competent jurisdiction permanently restraining or enjoining the party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of a false filing with a state or with the Securities and Exchange Commission entered within five years before the filing of the small corporate offering registration application;

(v) is subject to a state's administrative enforcement order, or judgment that prohibits, denies, or revokes the use of an exemption for registration in connection with the offer, purchase, or sale of securities,

(I) except that clauses (i) to (iv) do not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or if the dealer employing the party is licensed or registered in this state and the form BD filed in this state discloses the order, conviction, judgment, or decree relating to the person, and

(II) except that the disqualification under this subdivision is automatically waived if the state securities administrator or federal agency that created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances to deny the registration.

(4) Filing and effectiveness of registration statement. A small corporate offering registration statement must be filed with the administrator. If no stop order is in effect and the filing of the small corporate offering registration application; or

(A) except that clauses (i) to (iv) do not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or if the dealer employing the party is licensed or registered in this state and the form BD filed in this state discloses the order, conviction, judgment, or decree relating to the person, and

(II) except that the disqualification under this subdivision is automatically waived if the state securities administrator or federal agency that created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances to deny the registration.

(4) Filing and effectiveness of registration statement. A small corporate offering registration statement must be filed with the administrator. If no stop order is in effect and
no proceeding is pending under section 80A.54, such registration statement shall become effective automatically at the close of business on the 20th day after filing of the registration statement or the last amendment of the registration statement or at such earlier time as the administrator may designate by rule or order. For the purposes of a nonissuer transaction, other than by an affiliate of the issuer, all outstanding securities of the same class identified in the small corporate offering registration statement as a security registered under this chapter are considered to be registered while the small corporate offering registration statement is in force. A small corporate offering registration statement is effective for one year after its effective date or for any longer period designated in an order under this chapter. A small corporate offering registration statement may be withdrawn only with the approval of the administrator.

(5) Contents of registration statement. A small corporate offering registration statement under this section shall be on Form U-7, including exhibits required by the instructions thereto, as adopted by the North American Securities Administrators Association, or such alternative form as may be designated by the administrator by rule or order and must include:

(A) a consent to service of process complying with section 80A.88;

(B) a statement of the type and amount of securities to be offered and the amount of securities to be offered in this state;

(C) a specimen or copy of the security being registered, unless the security is uncertificated, a copy of the issuer's articles of incorporation and bylaws or their substantial equivalents in effect, and a copy of any indenture or other instrument covering the security to be registered;

(D) a signed or conformed copy of an opinion of counsel concerning the legality of the securities being registered which states whether the securities, when sold, will be validly issued, fully paid, and nonassessable and, if debt securities, binding obligations of the issuer;

(E) the states (i) in which the securities are proposed to be offered; (ii) in which a registration statement or similar filing has been made in connection with the offering including information as to effectiveness of each such filing; and (iii) in which a stop order or similar proceeding has been entered or in which proceedings or actions seeking such an order are pending;

(F) a copy of the offering document proposed to be delivered to offerees; and

(G) a copy of any other pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering and any solicitation of interest used in compliance with section 80A.46(17)(B).

(6) Copy to purchaser. A copy of the offering document as filed with the administrator must be delivered to each person purchasing the securities prior to sale of the securities to such person.
must be made on or before the date notice filing expires.  

Sec. 5. Minnesota Statutes 2022, section 80A.61, is amended to read:

(d) Regulation A - Tier 2 filing requirements.

(1) Initial filing. An issuer planning to offer and sell securities in Minnesota in an offering exempt under Tier 2 of federal Regulation A must, at least 21 calendar days before the date of the initial sale of securities in Minnesota, submit to the administrator:

(A) a completed Regulation A - Tier 2 offering notice filing form or copies of all the documents filed with the Securities Exchange Commission; and

(B) a consent to service of process on Form U-2, if consent to service of process is not provided in the Regulation A - Tier 2 offering notice filing form.

The initial notice filing made in Minnesota is effective for 12 months after the date the filing is made.

(2) Renewal. For each additional 12-month period in which the same offering is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew the notice filing by filing (i) the Regulation A - Tier 2 offering notice filing form marked "renewal," or (ii) a cover letter or other document requesting renewal. The renewal filing must be made on or before the date notice filing expires.

(3) Amendment. An issuer may increase the amount of securities offered in Minnesota by submitting a Regulation A - Tier 2 offering notice filing form or other document describing the transaction; or

Sec. 40. Minnesota Statutes 2022, section 80A.61, is amended to read:

(a) Application for initial registration by broker-dealer, agent, investment adviser, or investment adviser representative. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with section 80A.88, and paying the fee specified in section 80A.65 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain:

(1) the information or record required for the filing of a uniform application; and

(2) upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.

Sec. 406; REGISTRATION BY BROKER-DEALER, AGENT, INVESTMENT ADVISER, AND INVESTMENT ADVISER REPRESENTATIVE.

(c) Offering limit. Offers and sales of securities under a small corporate offering registration as set forth in this section are allowed up to the limit prescribed by Code of Federal Regulations, title 17, part 230.504(b)(2), as amended.

(j) Amendment. An issuer may increase the amount of securities offered in Minnesota by submitting a Regulation A - Tier 2 offering notice filing form or other document describing the transaction; or

Sec. 5. Minnesota Statutes 2022, section 80A.61, is amended to read:

(a) Application for initial registration by broker-dealer, agent, investment adviser, or investment adviser representative. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with section 80A.88, and paying the fee specified in section 80A.65 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain:

(1) the information or record required for the filing of a uniform application; and

(2) upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.
A funding portal that has its principal place of business in the state of Minnesota shall register with the state of Minnesota by filing with the administrator a copy of the information or record required for the filing of an application for registration as a funding portal in the manner established by the Securities and Exchange Commission and/or the Financial Institutions Regulatory Authority (FINRA), along with any rule adopted or order issued, and any amendments thereto.

(i) Funding portal registration. A funding portal that has its principal place of business in the state of Minnesota shall register with the state of Minnesota by filing with the administrator a copy of the information or record required for the filing of an application for registration as a funding portal in the manner established by the Securities and Exchange Commission and/or the Financial Institutions Regulatory Authority (FINRA), along with any rule adopted or order issued, and any amendments thereto.

(g) Application for investment adviser representative registration.

(1) The application for initial registration as an investment adviser representative pursuant to section 80A.58 is made by completing Form U-4 (Uniform Application for Securities Industry Registration or Transfer) in accordance with the form instructions and by filing the form U-4 with the IARD. The application for initial registration must also include the following:

(i) proof of compliance by the investment adviser representative with the examination requirements of:

(A) the Uniform Investment Adviser Law Examination (Series 65); or

(B) the General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66);

(ii) any other information the administrator may reasonably require.

(b) Amendment. If the information or record contained in an application filed under subsection (a) is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Effectiveness of registration. If an order is not in effect and a proceeding is not pending under section 80A.67, registration becomes effective at noon on the 45th day after a completed application is filed, unless the registration is denied. A rule adopted or order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 45th day after the filing of any amendment completing the application.

(d) Registration renewal. A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under section 80A.67, a registration may be automatically renewed each year by filing such records are as required by rule adopted or order issued under this chapter, by paying the fee specified in section 80A.65, and by paying costs charged by the designee of the administrator for processing the filings.

(e) Additional conditions or waivers. A rule adopted or order issued under this chapter may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(f) Funding portal registration. A funding portal that has its principal place of business in the state of Minnesota shall register with the state of Minnesota by filing with the administrator a copy of the information or record required for the filing of an application for registration as a funding portal in the manner established by the Securities and Exchange Commission and/or the Financial Institutions Regulatory Authority (FINRA), along with any rule adopted or order issued, and any amendments thereto.

(g) Application for investment adviser representative registration.

(1) The application for initial registration as an investment adviser representative pursuant to section 80A.58 is made by completing Form U-4 (Uniform Application for Securities Industry Registration or Transfer) in accordance with the form instructions and by filing the form U-4 with the IARD. The application for initial registration must also include the following:

(i) proof of compliance by the investment adviser representative with the examination requirements of:

(A) the Uniform Investment Adviser Law Examination (Series 65); or

(B) the General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66);

(ii) any other information the administrator may reasonably require.
The application for the annual renewal registration as an investment adviser representative shall be filed with the IARD.

The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur;

An investment adviser representative and the investment adviser must file promptly with the IARD any amendments to the representative's Form U-4; and

An amendment will be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

An application for initial or renewal of registration is not considered filed for purposes of section 80A.58 until the required fee and all required submissions have been received by the administrator.

The application for withdrawal of registration as an investment adviser representative pursuant to section 80A.58 shall be completed by following the instructions on Form U-5 (Uniform Termination Notice for Securities Industry Registration) and filed upon Form U-5 with the IARD.

This section is effective the day following final enactment.
(1) a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter;

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78g(a)) if they are readily accessible to the administrator; and

(3) investment adviser records required to be maintained under paragraph (d)(1) may be maintained in any form of data storage required by rule adopted or order issued under this chapter.

(d) Records and reports of private funds.

(1) In general. An investment adviser to a private fund shall maintain such records of, and file with the administrator such reports and amendments thereto, that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, Code of Federal Regulations, title 17, section 275.204-4.

(2) Treatment of records. The records and reports of any private fund to which an investment adviser provides investment advice shall be deemed to be the records and reports of the investment adviser.

(3) Required information. The records and reports required to be maintained by an investment adviser, which are subject to inspection by a representative of the administrator at any time, shall include for each private fund advised by the investment adviser, a description of:

(A) the amount of assets under management;

(B) the use of leverage, including off-balance-sheet leverage, as to the assets under management;

(C) counterparty credit risk exposure;

(D) trading and investment positions;

(E) valuation policies and practices of the fund;

(F) types of assets held;

(G) side arrangements or side letters, whereby certain investors in a fund obtain more favorable rights or entitlements than other investors;

(H) trading practices; and

(I) such other information as the administrator determines is necessary and appropriate in the public interest and for the protection of investors, which may include the establishment

(1) a broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter;

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78g(a)) if they are readily accessible to the administrator; and

(3) investment adviser records required to be maintained under paragraph (d)(1) may be maintained in any form of data storage required by rule adopted or order issued under this chapter.

(d) Records and reports of private funds.

(1) In general. An investment adviser to a private fund shall maintain such records of, and file with the administrator such reports and amendments thereto, that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, Code of Federal Regulations, title 17, section 275.204-4.

(2) Treatment of records. The records and reports of any private fund to which an investment adviser provides investment advice shall be deemed to be the records and reports of the investment adviser.

(3) Required information. The records and reports required to be maintained by an investment adviser, which are subject to inspection by a representative of the administrator at any time, shall include for each private fund advised by the investment adviser, a description of:

(A) the amount of assets under management;

(B) the use of leverage, including off-balance-sheet leverage, as to the assets under management;

(C) counterparty credit risk exposure;

(D) trading and investment positions;

(E) valuation policies and practices of the fund;

(F) types of assets held;

(G) side arrangements or side letters, whereby certain investors in a fund obtain more favorable rights or entitlements than other investors;

(H) trading practices; and

(I) such other information as the administrator determines is necessary and appropriate in the public interest and for the protection of investors, which may include the establishment
of different reporting requirements for different classes of fund advisers, based on the type
or size of the private fund being advised.

(4) Filings of records. A rule or order under this chapter may require each investment
adviser to a private fund to file reports containing such information as the administrator
deems necessary and appropriate in the public interest and for the protection of investors.

(e) Audits or inspections. The records of a broker-dealer registered or required to be
registered under this chapter, and of an investment adviser registered or required to be
registered under this chapter, including the records of a private fund described in paragraph
(d) and the records of investment advisers to private funds, are subject to such reasonable
periodic, special, or other audits or inspections by a representative of the administrator,
within or without this state, as the administrator considers necessary or appropriate in the
public interest and for the protection of investors. An audit or inspection may be made at
any time and without prior notice. The administrator may copy, and remove for audit or
inspection copies of, all records the administrator reasonably considers necessary or
appropriate to conduct the audit or inspection. The administrator may assess a reasonable
charge for conducting an audit or inspection under this subsection.

(f) Custody and discretionary authority bond or insurance. Subject to Section 15(b)
of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)) or Section 222 of the
Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a rule adopted or order issued
under this chapter may require a broker-dealer or investment adviser that has custody of or
discretionary authority over funds or securities of a customer or client to obtain insurance
or post a bond or other satisfactory form of security in an amount of at least $25,000, but
not to exceed $100,000. The administrator may determine the requirements of the insurance,
bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form
of security may not be required of a broker-dealer registered under this chapter whose net
capital exceeds, or of an investment adviser registered under this chapter whose minimum
financial requirements exceed, the amounts required by rule or order under this chapter.

The insurance, bond, or other satisfactory form of security must permit an action by a person
to enforce any liability on the insurance, bond, or other satisfactory form of security if
sustained within the time limitations in section 80A.76(j)(2).

(g) Requirements for custody. Subject to Section 15(h) of the Securities Exchange Act
of 1934 (15 U.S.C. Section 78o(h)) or Section 222 of the Investment Advisers Act of 1940
(15 U.S.C. Section 80b-22), an agent may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer
regarding custody of funds or securities of a customer and on an investment adviser regarding
custody of securities or funds of a client.

(h) Investment adviser brochure rule. With respect to an investment adviser registered
or required to be registered under this chapter, a rule adopted or order issued under this

of different reporting requirements for different classes of fund advisers, based on the type
or size of the private fund being advised.

(4) Filings of records. A rule or order under this chapter may require each investment
adviser to a private fund to file reports containing such information as the administrator
deems necessary and appropriate in the public interest and for the protection of investors.

(e) Audits or inspections. The records of a broker-dealer registered or required to be
registered under this chapter, and of an investment adviser registered or required to be
registered under this chapter, including the records of a private fund described in paragraph
(d) and the records of investment advisers to private funds, are subject to such reasonable
periodic, special, or other audits or inspections by a representative of the administrator,
within or without this state, as the administrator considers necessary or appropriate in the
public interest and for the protection of investors. An audit or inspection may be made at
any time and without prior notice. The administrator may copy, and remove for audit or
inspection copies of, all records the administrator reasonably considers necessary or
appropriate to conduct the audit or inspection. The administrator may assess a reasonable
charge for conducting an audit or inspection under this subsection.

(f) Custody and discretionary authority bond or insurance. Subject to Section 15(b)
of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)) or Section 222 of the
Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a rule adopted or order issued
under this chapter may require a broker-dealer or investment adviser that has custody of or
discretionary authority over funds or securities of a customer or client to obtain insurance
or post a bond or other satisfactory form of security in an amount of at least $25,000, but
not to exceed $100,000. The administrator may determine the requirements of the insurance,
bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form
of security may not be required of a broker-dealer registered under this chapter whose net
capital exceeds, or of an investment adviser registered under this chapter whose minimum
financial requirements exceed, the amounts required by rule or order under this chapter.

The insurance, bond, or other satisfactory form of security must permit an action by a person
to enforce any liability on the insurance, bond, or other satisfactory form of security if
sustained within the time limitations in section 80A.76(j)(2).

(g) Requirements for custody. Subject to Section 15(h) of the Securities Exchange Act
of 1934 (15 U.S.C. Section 78o(h)) or Section 222 of the Investment Advisers Act of 1940
(15 U.S.C. Section 80b-22), an agent may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this chapter may prohibit, limit, or impose conditions on a broker-dealer
regarding custody of funds or securities of a customer and on an investment adviser regarding
custody of securities or funds of a client.
chapter may require that information or other record be furnished or disseminated to clients
or prospective clients in this state as necessary or appropriate in the public interest and for
the protection of investors and advisory clients.

(i) Continuing education. A rule adopted or order issued under this chapter may require
an individual registered under section 80A.57 or 80A.58 to participate in a continuing
education program approved by the Securities and Exchange Commission and administered
by a self-regulatory organization.

EFFECTIVE DATE. This section is effective January 1, 2025.

Subd. 3. Escrow or impoundment of fees and other funds by commissioner. If the
commissioner finds that the applicant has failed to demonstrate that adequate financial
arrangements have been made to fulfill obligations to provide real estate, improvements,
equipment, inventory, or other items included in the offering, the commissioner
may by rule or order require the escrow, impoundment, or deferral of franchise fees and
other funds paid by the franchisee or subfranchisor until no later than the time of opening
of the franchise business.

Sec. 43. Minnesota Statutes 2022, section 82B.021, subdivision 26, is amended to read:

means the version of the uniform standards of professional appraisal practice of the
Appraisal Foundation in effect as of January 1, 1991, or other version of these standards the commissioner may by order designate on
the date the appraiser signs the appraisal report.

Sec. 44. Minnesota Statutes 2022, section 82B.094, is amended to read:

82B.094 SUPERVISION OF TRAINEE REAL PROPERTY APPRAISERS.

(a) A certified residential real property appraiser or a certified general real property
appraiser, in good standing, may engage a trainee real property appraiser to assist in the
performance of real estate appraisals, provided that the certified residential real property appraiser
or certified general real property appraiser:

(1) has been licensed in good standing as either a certified residential real property
appraiser or a certified general real property appraiser for the three-year period immediately
preceding the individual's application to become a supervisor;

(2) has completed a six-hour course, approved in advance by the commissioner and
provided by an education provider approved by the commissioner, that is specifically oriented
to the requirements and responsibilities of supervisory appraisers and trainee appraisers—
a course approved by the commissioner for the purpose of this section must be given the
course title "Minnesota Supervisor/Trainee Appraiser Course";
(3) has not been the subject of any license or certificate suspension or revocation or has not been prohibited from supervising activities in this state or any other state within the three years immediately preceding the individual's application to become a supervisor;

(4) has no more than three trainee real property appraisers working under supervision at any one time;

(5) actively and personally supervises the trainee real property appraiser, which includes ensuring that research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that the analysis is sound and adequately reported, and that any analyses, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading;

(6) discusses with the trainee real property appraiser any necessary and appropriate changes that are made to a report, involving any trainee appraiser, before it is transmitted to the client. Changes not discussed with the trainee real property appraiser that are made by the supervising appraiser must be provided in writing to the trainee real property appraiser upon completion of the appraisal report;

(7) accompanies the trainee real property appraiser on the inspections of the subject properties and drive-by inspections of the comparable sales on all appraisal assignments for which the trainee will perform work until the trainee appraiser is determined to be competent, in accordance with the competency rule of USPAP for the property type;

(8) accepts full responsibility for the appraisal report by signing and certifying that the report complies with USPAP; and

(9) reviews and signs the trainee real property appraiser's appraisal report or reports or if the trainee appraiser is not signing the report, states in the appraisal the name of the trainee and scope of the trainee's significant contribution to the report;

(b) The supervising appraiser must review and sign the applicable experience log required to be kept by the trainee real property appraiser.

(c) The supervising appraiser must notify the commissioner within ten days when the supervision of a trainee real property appraiser has terminated or when the trainee appraiser is no longer under the supervision of the supervising appraiser.

(d) The supervising appraiser must maintain a separate work file for each appraisal assignment.

(e) The supervising appraiser must verify that any trainee real property appraiser that is subject to supervision is properly licensed and in good standing with the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2026.
Sec. 9. Minnesota Statutes 2022, section 82B.095, subdivision 3, is amended to read:

Subd. 1. The requirements to obtain and maintain a trainee real property appraiser, licensed real property appraiser, certified residential real property appraiser, or certified general real property appraiser license are the education, examination, and experience requirements established by the Appraiser Qualifications Board of the Appraisal Foundation and published in the most recent version of the Real Property Appraiser Qualification Criteria.

(b) An applicant must complete the applicable education and experience requirements before taking the required examination.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 10. Minnesota Statutes 2022, section 82B.19, subdivision 1, is amended to read:

Subdivision 1. License renewals. (a) The commissioner must determine that a licensed real estate appraiser has met the continuing education requirements of this chapter before the commissioner renews a license. This determination must be based on, for a resident appraiser, course completion records uploaded electronically in a manner prescribed by the commissioner and, for a nonresident appraiser, course completion records presented by electronic transmission or uploaded electronically in a manner prescribed by the commissioner.

(b) The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 30 classroom hours of instruction in courses or seminars that have received the approval of the commissioner. Classroom hour credit must not be accepted for courses of less than two hours. As part of the continuing education requirements of this section, the commissioner must require that all real estate appraisers successfully complete the seven-hour national USPAP update course every two years. If the applicant's immediately preceding term of licensing consisted of six or more months, but fewer than 24 months, the applicant must provide evidence of completion of 15 hours of instruction during the license period. The credit hours required under this section may be credited to a person for distance learning.

EFFECTIVE DATE. This section is effective January 1, 2026.
education courses that meet Appraiser Qualifications Board criteria. An approved prelicense
education course may be taken for continuing education credit.

(b) The 15-hour USPAP course cannot be used to satisfy the requirement to complete
the seven-hour national USPAP update course every two years.

EFFECTIVE DATE. This section is effective January 1, 2026.

Sec. 49. RULEMAKING.

The commissioner of commerce must adopt rules to conform with the changes made in
Minnesota Statutes, sections 80A.66 and 80C.05 with respect to investment adviser
registration continuing education and franchise fees deferral, respectively. The commissioner
of commerce may use the good cause exemption under Minnesota Statutes, section 14.388,
subdivision 1, clause (3), to amend the rule under this section, and Minnesota Statutes,
section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.

Sec. 50. RULEMAKING.

The commissioner of commerce must amend Minnesota Rules, part 2675.2170, to comply
with the changes made in this act. The commissioner of commerce may use the good cause
exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend
the rule under this section. Minnesota Statutes, section 14.386, does not apply, except as
provided under Minnesota Statutes, section 14.388.

Sec. 51. REPEALER.

(a) Minnesota Statutes 2022, sections 45.014; and 58.08, subdivision 3, are repealed.

(b) Minnesota Statutes 2022, section 82B.25, is repealed.

(c) Minnesota Statutes 2023 Supplement, section 53B.58, is repealed.
Minnesota Statutes 2023 Supplement, section 332.71, subdivision 8, is repealed.

Paragraph (b) is effective January 1, 2026.

Paragraph (b) is effective January 1, 2025.

Sec. 52. EFFECTIVE DATE: Paragraph (b) is effective January 1, 2025.

Sections 1 and 2 are effective August 1, 2024, and apply to loans executed on or after that date.